PROCEEDINGS

OF THE

COUNCIL

OF THE

LIEUTENANT-GOVERNOR OF BENGAL

FOR THE

PURPOSE OF MAKING LAWS AND REGULATIONS

FROM

February 1, 1862 to December 31, 1864.

VOL. I.

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TO

THE PROCEEDINGS

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PURPOSE OF MAKING LAWS AND REGULATIONS.

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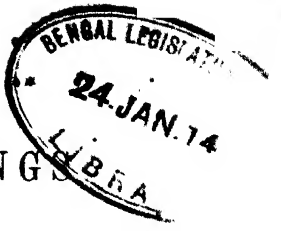


PROCEEDINGS

OF THE

COUNCIL OF THE LIEUTENANT-GOVERNOR OF BENGAL

FOR THE

PURPOSE OF MAKING LAWS AND REGULATIONS.

*Rules for the conduct of business at Meetings of the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations.**

RULE 1.

Interpretations.

THE word "Council," as used in these Rules, shall mean the Council of the Lieutenant-Governor of Bengal assembled for the purpose of making Laws and Regulations.

The word "President," as used in these Rules, shall mean the Lieutenant-Governor of Bengal, or, in his absence, the Member highest in Official rank among those who may hold office under the Crown, present and presiding.

The word "Secretary," as used in these Rules, shall mean the Secretary to the Government of Bengal in the Legislative Department.

The word "Bill," as used in these Rules, shall mean the project of a Law reduced to form before it has been passed by the Council.

The word "Act," as used in these Rules, shall mean such project of a Law after it has been so passed.

RULE 2.

Sessions.

When it may appear to the Lieutenant-Governor advisable that the Council shall sit for the purpose of considering projects of Law, the Lieutenant-Governor shall summon the Members to a Session by Notification in the *Calcutta Gazette*. There shall be at least one Session of the Council in the year, and more when necessary. When it may appear to the Lieutenant-Governor advisable that a Session of the Council shall be closed, he may close the Session either by announcement at a Meeting, or by a Notification in the *Calcutta Gazette*.

RULE 3.

Ordinary Meetings.

During its Session the Council will ordinarily meet every Saturday at 11 A.M., and will also meet on any other days to which it may be, from time to time, adjourned.

RULE 4.

Extraordinary Meetings.

Extraordinary Meetings of the Council may be called by the Lieutenant-Governor at any time during a Session, a special notice of such Extraordinary Meeting being sent to every Member.

RULE 5.

Adjournments.

The President, when the business of a Meeting is concluded, shall adjourn the Meeting. He may adjourn at any time during a Meeting, without

* Received the sanction of the Governor-General of India in Council, on the 28th January 1862.

debate or vote, any Meeting, or any business, to any future day, or to any time of the same day.

RULE 6.

Order. The President shall preserve order, and all points of order shall be decided by him. No discussion on any point of order shall be allowed unless the President shall think fit to take the opinion of the Council thereon. Any Member may at any time submit a point of order to the decision of the President.

RULE 7.

Business. The President will regulate the order of business at Meetings of the Council, and may at any time refer any particular matter coming properly under the consideration of the Council for the consideration of a Meeting Ordinarily there shall be prepared by the Secretary a List of the matters to be taken into consideration at each Meeting, whereof a copy shall be sent by him to each Member two days before the day of Meeting. No business not entered in this List shall be transacted at any Meeting without the permission of the President previously obtained and announced by him.

RULE 8.

Notices of Motion. Members who wish to make any original Motion at any Meeting, must give notice of their intention at the next previous Meeting, or they must send such notice to the Secretary, three days before the day of the Meeting at which they intend to make the Motion.

RULE 9.

Notices of Amendment. Members who wish to move any thing by way of amendment relating to business about to come before the Council, may adopt either of the two courses prescribed in the last preceding Rule. If they do not adopt either of these courses and move anything by way of amendment without notice, in that case, should the amendment be held by the President to introduce new matter of importance, or otherwise to be of a substantial character, he may, at his discretion, postpone the consideration thereof until the next Meeting

RULE 10.

Inadmissible Amendments. Amendments having the mere effect of a negative vote, shall not be moved.

RULE 11.

Debates. In discussing questions coming before the Council for consideration, a Member shall speak from his place, shall rise when he speaks, and shall address the President. A Member shall not be allowed to read his speech, but he may refresh his memory by referring to notes, and he may read, as part of his speech, passages from books or papers cited in support of his argument. At any time if the President rises, any Member speaking, shall immediately resume his seat No Member shall be heard except upon business then regularly before the Council or, by permission of the President specially obtained, in explanation of what he had said in a previous Debate. Except in discussing verbal amendments when the Council is settling the several Clauses of a Bill, no Member shall speak more than once upon a question, other than the Mover, who shall be allowed, if he have spoken to the question when making his Motion, to close the Debate with a reply. But a Member who has spoken upon a Motion, may speak again upon any amendment thereof afterwards moved. And a Member may explain what he has before spoken, if it has been misunderstood. No Member, in Debate, shall name another Member.

RULE 12.

Motions. Every matter to be determined by the Council, shall be decided after Motion made and question put by the Presi-

dent, and shall be resolved in the affirmative, or in the negative, according to the majority of votes. Votes shall be taken by voices or by division, and shall always be taken by division, if any Member desires them so to be taken. The President shall direct the method of taking votes by division. Subject to the provisions of the Statute 24th and 25th Vic., cap 67, and to these Rules, any Member may, by Motion, propose, for the determination of the Council, any original question, or any amendment of such question, relating to Laws and Regulations proposed for enactment, or relating to the Rules for the conduct of business at Meetings of the Council. Every Motion, whether original or in amendment, shall be put into writing and delivered to the President, who, if he considers it to be in order, shall put the proposed question to the Council, after which it may be debated. A Member who has moved an original question, or an amendment, may withdraw the same unless some Member desires that it be put to the vote. If debated and not withdrawn, the President shall again read the question when taking the sense of the Council upon it.

RULE 13.

Amendments.

When an amendment upon any Motion is moved, or when two or more such amendments are moved, the President, when taking the sense of the Council thereon, shall read the terms of the original Motion and of the amendment or amendments proposed; and before putting any other question, shall put the question that the original Motion do stand without amendment. If that question is decided in the affirmative, the Motion shall be put to the vote without amendment. If not, and there be but one amendent proposed, the Motion shall be put to the vote as proposed to be amended; or if there be more than one amendment proposed, the question shall be put that the Motion be put to the vote as proposed by the amendment which the President thinks may most conveniently be first disposed of, and so, if necessary, of all the others. When any one amendment is affirmed, the question shall be put to the vote amended accordingly. If any Motion, as made, involves many points, the President, at his discretion, may divide it so that each point may be determined separately.

RULE 14.

Asking information.

When, for the purpose of explanation during discussion, or for any other sufficient reason, any Member shall have occasion to ask a question of another Member relating to the business of the Council, he shall ask the question through the President. Any Member may ask for any papers or returns connected with the business before the Council. The President shall determine, either at the time, or at the Meeting of the Council next following, whether the papers or returns asked for can be given, if such papers or returns are in the Office of any Secretary to the Government of Bengal, or can be asked for if they are not.

RULE 15.

Bills.

No Bill can be brought into the Council without the leave of the Council formally asked on Motion and obtained. When leave to bring in a Bill has been so obtained, the Member who wishes to bring in the Bill may then deliver it to the Secretary, or may send it to him afterwards. The Bill must be accompanied with a full statement of objects and reasons, to which any papers that may be considered necessary, may be appended. The Secretary will cause the whole to be printed, and will send a copy to every Member. Such papers, by special order of the President, may be prepared and printed in anticipation.

At any subsequent Meeting, not being less than three days after the printed copies have been in the hands of Members, a Motion may be made that the Bill be read in Council.

At this stage, on Motion made to that effect by way of amendment, the Bill may be referred to a Select Committee, with special instructions to

revise it in any manner prescribed. If this course be adopted, the Select Committee, after revising the Bill as instructed, shall report the revised Bill to the Council as soon as may be. After receiving this Report, a Motion may be made in usual course that the Bill, as so revised, be read in Council.

If the question that the Bill, as revised or otherwise, be read in Council is affirmed, the Secretary shall read the Title of the Bill. The Bill shall then be referred to a Select Committee for Report, and shall be published in the English and Bengalee languages in the *Calcutta* and *Bengalee Gazettes*. A Bill may be sent to the Secretary when the Council is not in Session, and the Lieutenant-Governor may order its publication, together with the statement of objects and reasons which accompanies it. In that case, if the Bill, with permission previously obtained as above prescribed, be afterwards introduced and read in Council without material alteration, it shall not be necessary to publish it again when read in Council.

When one month has elapsed from the publication of a Bill, or in any shorter or longer period that the Council may order, the Select Committee shall prepare a Report thereon. It shall be the duty of the Committee to revise the Bill Clause by Clause, and to recommend any amendments therein that may to them seem advisable. Whilst the Select Committee is sitting, all communications relating to the Bill, received by the Lieutenant-Governor, shall be referred to it.

The Report of the Select Committee shall be sent to the Secretary and printed, and a copy shall be sent by him to each Member. The Report, by order of the President, may be published It shall be taken into consideration by the Council, in order to the settlement of the Clauses of the Bill, as soon as conveniently may be, but not until a week after the Report has been furnished to the Members. When the Report is taken into consideration, it may be moved that the Clauses of the Bill be considered for settlement in the form recommended by the Select Committee, and if the Motion is affirmed, the Clauses shall be so considered. If no such Motion is made and affirmed, the Clauses shall be considered for settlement as they stood when the Bill was read in Council.

In settling the Clauses of a Bill, amendments may be moved in each Clause in like manner as amendments to Motions, and subject to the provisions of Rules 9 and 13, or it may be moved that a Clause or Clauses be omitted; or that a new Clause or new Clauses be added. Such amendments shall be considered in the order of the Clauses to which they relate, the Preamble and Title being settled last.

If, after the settlement of Clauses, the Bill differs materially upon any important point from the form in which it was read in Council and published, it may be again published as amended, and re-considered after such time as the Council may order.

If the Clauses are settled by the Council as revised by the Select Committee, the Bill may at once be passed Otherwise the Bill shall not be passed, at the same Meeting, but shall be brought forward again at a future Meeting, and may then be passed with or without further amendment. But no Bill can be passed, and so become an Act of the Lieutenant-Governor in Council, unless the Quorum required by the Statute 24th and 25th Vic, chap 67, that is to say, the President and not less than one-half of the Members, be present at the time.

After the passing of an Act the Secretary shall revise and complete the marginal notes thereof, and shall submit it to the Lieutenant-Governor for his assent.

Rule 16.

Assents.

If the Lieutenant-Governor assents to an Act, it will be by him submitted for the assent of the Governor-General. If the Governor-General assents to the Act, it will be published in the *Calcutta Gazette* as an Act of the Lieutenant-Governor of Bengal in Council, assented to by the Governor-General and having the force of Law.

Rule 17.

Petitions.

Communications on matters connected with any business before the Council, and proposals for the enactment of any Law, may be addressed either in the form of a Petition to the Lieutenant-Governor in Council, or of a letter to the Secretary, and must, in either case, be sent to the Secretary. Ordinarily such communications will not be answered.

The Secretary will either cause such communications to be printed, sending a copy for the use of each Member, or will circulate them for the perusal of each Member, or will refer them to a Select Committee sitting on any Bill to which they relate.

Rule 18.

Select Committees.

Select Committees may be appointed by the Council for any purpose connected with the business of the Council, and may sit and may report on Bills, or on other matters referred for their consideration, although the Council is not in Session.

The Secretary shall cause all Reports of Select Committees to be printed, and shall send copies of such for the use of each Member, whether the Council be in Session at the time or not.

Rule 19.

Journal.

A Journal shall be kept in which all the Proceedings of the Council shall be fairly entered.

The Journal shall be submitted after each Meeting to the President for his confirmation and signature, and when so signed, shall be the record of the proceedings of the Council.

Rule 20.

Secretary.

In addition to the other duties specially required by these Rules, it shall be the duty of the Secretary—

1. To take charge of all the Records of the Council.

2. To keep the Books of the Council.

3. To keep a Minute Book, in which he shall enter at the time all the proceedings of the Council in the order in which they occur, and the names of the Members present.

4. To superintend the printing of all papers ordered to be printed.

5. To make out weekly, during the Session, a List of all Select Committees sitting.

6. To assist the Council and all Committees in such manner as they may order

7. To write all letters ordered by the Council to be written, or by any Committee thereof.

All acts which the Secretary is required to do, may be done by any Secretary, Junior Secretary, or Under-Secretary of the Government of Bengal.

Rule 21.

Strangers.

Strangers will be admitted into the Council Chamber during the sittings of the Council on the production of orders of admission. Application for orders of admission is to be made to the Secretary.

The President, whether on the application of any Member or otherwise, may direct at any time during a sitting of the Council that strangers do withdraw.

Rule 22.

Printed Papers.

Copies of all Papers printed for the use of the Council, except such as the Secretary may consider for any reason to be unfit for publication, shall be delivered to some Bookseller in Calcutta, who will engage to sell them at such rates as may be fixed by the Secretary.

Rule 23.

Suspension of Rules.

The President, for sufficient reason and whether upon the application of a Member or otherwise, may suspend any of the foregoing Rules for a particular purpose.

Saturday, February 1, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate General,*	J. N. Bullen, Esq.,
A. R. Young, Esq.,	W. Maitland, Esq.,
H. D. H. Fergusson, Esq	A. T. T. Peterson Esq.,
E. H. Lushington, Esq.,	Rajah Pertaub Chand Singh.
Baboo Rama Persaud Roy,	and
Moulvy Abdool Luteef Khan Bahadoor.	Baboo Prosonno Coomar Tagore.

DECLARATIONS AND OATHS OF OFFICE.

RAJAH PERTAUB CHAND SING, BABOO RAMA PERSAUD ROY, MOULVY ABDOOL LUTEFF KHAN BAHADOOR, and BABOO PROSONNO COOMAR TAGORE, made a solemn declaration of Allegiance to Her Majesty Queen Victoria, and that they would faithfully fulfil the duties of their office

The other Members took the Oath of Allegiance, and the Oath that they would faithfully fulfil the duties of their office.

RULES.

THE PRESIDENT laid on the Table the Rules for the conduct of business at Meetings of the Council, and observed that amendments might at any time be made in them by the Council, subject to the sanction of His Excellency the Governor-General in Council

PENDING BUSINESS.

THE PRESIDENT then brought to the notice of the Members that portion of the business of the late Legislative Council which had been made over to his Council and with which it was his intention to proceed at once. He would proceed with a Bill regarding Zemindary Dawks; a Bill regarding Branch Railways and Tram Roads; a Bill for amending the Law as to recovery of Rents; a Bill for the better enforcement of discipline in the Calcutta House of Correction; and a Bill as to Registration of Nijjote and Khamar lands. These Bills had all reached an advanced stage in the late Legislative Council. Some other Bills already in shape would also be introduced, namely, a Bill to amend Act XLII of 1860 (for the establisment of Small Cause Courts in the Mofussil); a Bill regarding the Survey of Steamers; a Bill to amend Regulation XVIII of 1806 (for the collection of Tolls on Canals, &c., in Hidgelee and Tumlook); a Bill to increase the dues leviable in the Port of Calcutta; and a Bill regarding the hoisting of Signals by Vessels passing Signal Stations on the river Hooghly. A private Bill would also be brought before the Council, namely, a Bill to enable the Talookdars of Sootanuty, &c., to recover their rents. These subjects would all be taken up without delay.

HOUSE OF CORRECTION AND GREAT JAIL AT CALCUTTA.

MR. FERGUSSON asked the President that the 8th and 15th Rules might be suspended, in order to enable him to move for leave to bring in, and to pass through its subsequent stages, a Bill for the better enforcement of discipline in the House of Correction and Great Jail at Calcutta

THE PRESIDENT said that the Bill which it was proposed to introduce was one which had proceeded so far in the late Legislative Council as to have been revised and reported by Select Committee He observed that Sir Barnes Peacock and Sir Charles Jackson, were on the Select Committee, and had signed the Report recommending the revised Bill. There could be no better voucher for the Bill; and as it was desirable that the Bill, as revised, should be passed as soon as possible, he had no hesitation in suspending the Rules 8 and 15 for this purpose

MR. FERGUSSON then moved for leave to bring in the Bill.

The motion was put and agreed to.

RECOVERY OF RENTS.

MR. LUSHINGTON gave notice of his intention to move next Saturday,

for leave to bring in a Bill to amend Act X of 1859, for the recovery of Rents.

The Council adjourned till Saturday, the 8th February, at 11 A. M.

Saturday, February 8, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H Cowie, Esq., *Advocate-General.*
A. R. Young, Esq.,
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.
Joy Kissn Rama Persaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
A. J. T. Peterson, Esq.,
Rajah Pertaub Chand Singh,
and
Baboo Prosonno Coomar Tagore.

HOUSE OF CORRECTION AND GREAT JAIL AT CALCUTTA.

MR. FERGUSSON moved that the Bill for the better enforcement of discipline in the House of Correction and Great Jail at Calcutta be read in Council. He said, at present there was no proper controlling authority to provide for the due discipline and regularity of the House of Correction. There existed, in fact, a divided jurisdiction between the Sheriff and the Commissioner of Police, which had not tended to promote discipline and was calculated to produce serious inconvenience. As a remedy, the Bill vested the superintendence of the House of Correction in one officer instead of two officers; that one officer being either the Commissioner of Police, or such other person as the Government might from time to time appoint. The existing law applicable to Jail discipline had moreover been found insufficient to meet the case of all prisoners who were or might be confined in the House of Correction under different sentences passed by the various Courts and Tribunals. To remedy this, it was proposed to define the powers of the Commissioner or other Superintendent of the Prison, permitting him to award certain specified punishments for mutinous, violent, or contumacious conduct. Further, it was proposed to empower the Government to frame rules for the proper discipline of the prisoners. Provision was also made to preserve intact the jurisdiction of the Sheriff in case of any prisoner condemned to death being confined in the House of Correction. By one Section of the Bill it was provided that powers similar to those of the Superintendent of the House of Correction should be vested in the Sheriff or the Jailor, as regards the Great Jail of Calcutta. These were the main points of the Bill as amended by a Select Committee of the late Legislative Council. But he did not pledge himself to the Bill precisely as it then stood. From enquiries made, and communications received by him, he was of opinion that the Bill might be improved by extending Section III as well as Section II to the Great Jail; and also by the introduction of Sections similar to those in force in England, for the further punishment of refractory prisoners by Visiting Justices, and also for the punishment of attempts to introduce forbidden articles into the Jail. These and other points could, however, be considered in Committee; and he accordingly moved that the Bill be read in Council.

BABOO PROSONNO COOMAR TAGORE thought that, before the Bill was read a first time, Section VI ought to be expunged as being of a very objectionable character.

THE ADVOCATE-GENERAL said that that was a matter for the consideration of the Select Committee. The Section in question had been introduced in a similar Bill brought before the Legislative Council of India, and certainly it appeared to have reference to the whole territory of India. The Section, however, was open to revision by the Committee.

THE PRESIDENT held that the Honorable Member was in rule in expressing his views upon the subject

BABOO PROSONNO COOMAR TAGORE said that Section VI provided that the provisions of the Act might, under an order from the Go-

vernor-General in Council, be made applicable to any other House of Correction than that of Calcutta, or to any Jail established in any other part of the British territories in India; that appeared to him a most objectionable Clause, inasmuch as it placed the Council in the position of going out of their way to legislate for the other Presidencies. He thought that it would be better if the Council confined their legislation to the Presidency of Bengal. He wished that it might not be supposed that that Council claimed so extensive a jurisdiction.

MR. FERGUSSON said that it had always been intended to amend that particular Section, for it could not stand in its present form; that however was, he thought, a question for the Committee to which the Bill would be referred if read.

THE PRESIDENT said, if the Bill be read now, the Section would be published with the Bill, and he certainly thought that the objection of the Honorable Member was a valid one.

BABOO PROSONNO COOMAR TAGORE then moved as an amendment that the Bill be referred to a Select Committee with instructions to strike out Section VI.

The amendment was agreed to, and the Advocate-General, Mr. Fergusson, and Baboo Prosonno Coomar Tagore were nominated to act as a Committee.

RECOVERY OF RENTS.

MR. LUSHINGTON moved for leave to bring in a Bill to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal). He said that before submitting any remarks to the Council upon the Bill itself, he wished to remark that it was founded upon a Bill which had been amended by a Select Committee of the late Legislative Council of India. That Bill consisted of eight Sections, six of which were included in the Bill which he now proposed. He was sure, therefore, that those Sections which he had taken from that Bill would meet with the consideration at the hands of the Council which measures prepared by the late Legislative Council of India were entitled to obtain. He did not propose to review generally all the Sections of Act X of 1859, but simply to introduce certain amendments, which practical experience had proved to be necessary. The first alteration he proposed was to introduce a provision relating to attachment before judgment, so as to prevent persons in arrears making away with any property they might have, to avoid the execution of any decree against them. The 2nd Section of the Bill referred to fees to Agents or Mookteears, and it rescinded a portion of Section LXXI of Act X of 1859, and provided that it should be competent to a Collector, in any suit tried and decided under Act X of 1859, to award to any party as a fee for the services of any Agent or Mooktear employed by him, and charge as costs of suit, such a sum, not exceeding the rate of fee chargeable under the provisions of Section VII Act I of 1846 for Pleaders in the Civil Courts, as the Collector might direct. The 3rd Section related to the measurement of land. Now he need scarcely explain to the Council that the prosperity of every Zemindar depended in a very great degree upon his being able to obtain a correct measurement of his lands, for without these particulars he was not in a proper position to sue for arrears of rent or to eject the tenant or to enhance his rents. Section XXVI of Act X of 1859 only provided for cases in which the name of the tenant occupying the land intended to be measured was known to the Zemindar. When, however, that Act was passed, it did not appear to have been contemplated that cases might occur in which not only the Ryot failed to attend, but the Zemindar could not discover who his tenant really was. In some cases the cultivators of a whole village had absented themselves, and the Zemindar was unable to ascertain who cultivated any single portion of it. He proposed to introduce a Section providing that, in the event of any person wishing

Baboo Prosonno Coomar Tagore

to measure his land, and being unable to find out who was the tenant of the land, he should be authorized to apply to the Collector, who should cause a notification to be stuck up, either on the ground itself or at the kutcherry, calling upon the tenant to appear and point out his land; and in the event of his failing to attend, the Zemindar should be authorized to look upon the land as unclaimed, and all interest which the defaulting ryot might have in the land should lapse and revert to the Zemindar. The Bill would further provide that, if the parties desired it, the measurement should be made by an officer appointed by the Collector on the deposit of reasonable costs and expenses, to be treated as costs in the cause, and apportioned by the Collector. In all such cases the measurement should be made by the Government standard chain. The next amendment that he proposed had reference to the costs in a suit. He thought it better to illustrate the present system by an example. At present, if one party sued another for 1,000 Rupees, and the defendant only owed 5 Rupees, it was necessary for the defendant under Section LXXIV to pay 5 Rupees into Court, as well as the Stamp duty on 1,000 Rupees, which afterwards he was quite unable to recover. He proposed by the present Bill, that when a defendant was actually forced into Court without reasonable cause, and the suit was decided in his favor, the plaintiff should bear the whole expense of the suit. The Bill further contained a provision for taking out speedier execution. He also proposed a system of damages for non-payment of rent. The members of the Council were aware that of late, unfortunately, rents had fallen greatly into arrears, and that landlords had been unable to collect them. They were also well aware that in some cases rents had not been paid for what were apparently just reasons. Notwithstanding that fact, however, there could be no doubt that there were many cases in which the payment of rent had been withheld without just reason. In such case, the landlord had no other means of obtaining his rent than by taking the tenant into Court, where under the most favorable circumstances he might have a month to wait before he could get his money, and, even then an award for the full amount of his claim, with interest added at the rate of 12 per cent., did not reimburse him for the annoyance and expense to which he had been subjected in obtaining a decree. By the law landlords were compelled to pay the Government revenue by a certain day, and no excuse was admitted; and if they could not collect their own rent, the case was very hard upon them. In cases, therefore, where persons wilfully and contumaciously withheld the rents due by them, he proposed to render them liable to 25 per cent. penal damages as some degree of compensation to the Zemindar. He further proposed that the decisions passed by a Zillah Judge under Section CLXI of the said Act X of 1859 should be open to special appeal in the same manner, and subject to the same rules as the decisions of a Zillah Judge passed in regular appeals are open to special appeal under the said Act VIII of 1859. He begged to move for leave to bring in the Bill.

The Motion was put and agreed to.

BRANCH RAILWAYS AND TRAM-ROADS.

MR. FERGUSSON moved for leave to bring in a Bill to provide for the construction by companies and by private persons of branch railways, iron tram-roads, common roads, or canals, as feeders to public railways. The object of the Bill was the grand object of developing the natural resources of the country. A similar Bill was before the late Legislative Council, having been brought in at the request of the Lieutenant-Governor, and a similar one also was at present before the Council of the Governor-General for making Laws and Regulations. It might, therefore, be advisable at some future time to withdraw the present Bill, but in the meantime he would move for leave to introduce it.

THE PRESIDENT said that at the last Meeting of the Council of the Governor-General, a similar Bill, applicable to all India, had been introduced by Mr. Ritchie. It was then arranged that before proceeding to legislate on the matter in either Council, both Bills should be considered in consultation with Mr. Ritchie. He would not enter into the question of a future withdrawal of the bill, but no doubt the Hon'ble Member would put himself in communication with Mr. Ritchie on the subject.

The Motion was put and agreed to.

ZEMINDARY DAWKS.

MR. FERGUSSON moved for leave to bring in a Bill to improve the system of Zemindary Dawks in the Provinces subject to the Government of Bengal.

The Motion was put and agreed to.

COURTS OF SMALL CAUSES.

MR. FERGUSSON moved for leave to bring in a Bill to amend Act XLII of 1860 (for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter).

The Motion was put and agreed to.

CALCUTTA PORT-DUES.

MR. YOUNG moved for leave to bring in a Bill to amend Act XXX of 1857, for the levy of Port dues and fees in the Port of Calcutta. The accounts of the Dues received in Calcutta, and of the disbursements, showed a deficit of three lacs of Rupees. He proposed that the present *maximum* rate of 4 annas a ton be raised to 8 annas.

The Motion was put and agreed to.

SIGNALS FROM VESSELS IN THE RIVER HOOGHLY.

MR. BULLEN gave notice that, at the next Meeting of the Council, he should move for leave to introduce a Bill on the subject of the hoisting of signals by vessels arriving in Port.

There being no other business, the Council adjourned.

Saturday, February 15, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*
A. K. Young, Esq.,
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
Baboo Ramapersaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
A. T. T. Peterson, Esq.,
Rajah Pertaub Chand Singh,
and
Baboo Prosonno Coomar Tagore.

ZEMINDARY DAWKS.

MR. FERGUSSON said, he had the honor of moving that the Bill to improve the system of Zemindary Dawks in the provinces subject to the Government of Bengal be read in Council. Under the law of 1793, a liability to maintain dawks was declared to rest on the zemindars, and that old law was amended by Regulation XX. 1817, which clearly declared all the duties which the zemindars were bound to perform in aid of the police in the transport of the letters by dawk from police stations in the interior to the offices of the Magistrates at the various stations. The law thus passed in 1817 required the zemindars to appoint and maintain peons and runners, in order to transport these dawks, but it did not empower the Magistrates to interfere in the nomination of the runners, or in the mode of paying them. Now, the consequence of that had been great irregularity and a very inadequate performance of the dawk service. He might tell the Council that in many cases these runners had not been paid for months at a time, and the natural result had been that, in numerous instances, they had absconded, and extreme inconvenience and delay had been experienced in the delivery of letters. Then again, the present system had been a source of

great vexation and annoyance to the zemindars themselves: for they were liable to a fine of a hundred Rupees for any neglect in carrying out the liabilities imposed on them by the Regulation of 1817. Attempts to improve a system productive of such bad results had been made by more than one Magistrate in the Presidency of Bengal: and in Nuddea, Tirhoot, and Burdwan the zemindars had been induced to commute their liability to dawk service for a fixed sum paid directly to the Magistrate, who then appointed his own peons and runners, and either himself, or through his subordinates, paid them their wages; and by these means the postal communications had been placed on an efficient footing. He had himself had some experience of the working of this voluntary system in more than one district, and he was able to state that it had given great satisfaction wherever it had been tried. It had been especially satisfactory to the zemindars, who had found that a reform had been effected, not only without increasing the tax to which they had been liable since 1793, but decreasing in point of fact the cost to themselves, without exposing them to the inconvenience or vexation which they previously suffered when called upon to appear before the Courts of the Magistrates. Now, it appeared to him that there could be no good reason why a system which had been found to work well in some districts should not work equally well throughout the whole of the Presidency. The object of the present Bill was to compel all the zemindars to commute their liability in regard to Zemindary Dawks for a fixed money payment. Each Magistrate would consider and calculate the expense of keeping up dawks throughout his district, and having done so, he would apportion the amount rateably on all the zemindars within the district, and he would calculate that amount according to the sudder jumma payable by each zemindar. It was not intended that the new law should extend to Assam, with the exception of the permanently settled District of Gowalparah. There was an error in the 8th Section, for the Province of Arracan was mentioned. These words he proposed to strike out of the Bill, and it would also be necessary to make some verbal alterations at the end of Section IX. He might add that by the 6th Section, it would be competent to the Government to exempt from the proposed liability any small zemindar, the sudder jumma of whose estates did not exceed fifty Rupees a year. As he had before said, the experiment had been already tried, and he had no doubt that this Bill would be found to place the dawks on a satisfactory footing, and he begged therefore to move that it be read in Council.

BABOO PROSONNO COOMAR TAGORE considered the Bill to involve a question of considerable importance. He should not have had any objection to it if it had only proposed to tax those persons who were liable to the burden before its introduction. The present Bill, however, went beyond that, and therefore he thought that it was objectionable. He had looked upon the exemption of certain of the zemindars by all legislation which had taken place upon the subject as having finally settled that part of the question: but now, although the Government had got all the police allowances, it was proposed to assess all landlords, whether they were liable or not under the previous laws to contributions to police taxes. Instead of making those persons liable only, who were previously liable to this burden, they were going to make all the landlords of the district liable,—a principle utterly inconsistent with the present state of the law. If carrying letters to the Magistrates was, as he believed it was, incidental to police charges, it should be paid for by Government and not by the zemindars, who had been exempted from police charges. For these reasons he looked upon the Bill as being objectionable.

MR. PETERSON said, in his humble opinion the Honorable Member who spoke last had put the matter on a wrong footing, and he would endeavour to take a proper view of it. Was this a

burden independent of the land, or was it not? He could not help thinking that, in England at least, it would be considered a burden upon property, inasmuch as it appertained to a police rate. The Bill before the Council was a modification of the old legislation of 1817, which imposed a duty upon the zemindars. He would not enter into the question as to whether the duty was properly assessed or not upon all parties, for the simple question was whether it was a duty attaching to the land, and whether it had been carried out in such a manner as to satisfy the requirements of the case. It would be idle to open the question as to the principles upon which the legislation was founded, which had been the law of the land for forty years. The real question was whether this Bill ought to receive the sanction of the Council, not as proposing to impose new burdens, but as proposing to spread existing ones more equally. For his part he looked upon the matter as being a question of police, and he thought that all persons deriving advantages with regard to their property through the agency of the police, were bound to maintain every thing relating to the police of their own district. He ventured to submit that this was one of those burdens incidental to property, and that it ought to be borne, not by Government, but by the persons who benefited from it. He thought that it was a great mistake to be always looking for support to Government in these matters, and it would be much better to make a general assessment upon all parties holding lands. Some modifications might no doubt be necessary, but he would support the Bill subject to amendments in Committee, because he believed the principle to be a correct one. He was not quite sure that it went far enough, but he considered it to be a step in the right direction, and he should therefore give it his support.

BABOO RAMAPERSAUD ROY opposed the Bill upon principle, as it appeared to him that there was no legal sanction by which it could be maintained. The Honorable and learned Member who last spoke appeared entirely to forget that the police duties were formerly a burden upon landlords, but that they were taken away and the zemindars were relieved from them. When that was done, no doubt a proposition was made which did not actually impose a penalty on zemindars in the matter of dawks, but which was a sort of suggestive legislation, by which, in consequence of the difficulties of maintaining dawks for magisterial purposes, it was proposed that they should be maintained by the zemindars. It was proposed that those proprietors, through whose estates the dawk required to pass, or that the heads of villages, should be required to send letters on to the next village, and so on throughout the whole distance. No doubt, after some years, a penalty was imposed for non-performance of that duty: but the change then made was a limited one, without including any direct provision for raising funds, and the penalty was only imposed upon those zemindars through whose estates it was necessary the letters should pass. The present Bill, however, as it came before the Council, altogether changed that state of things, for it was a general Bill imposing a tax, at the Magistrate's discretion, upon all landed proprietors. The Magistrate was to make a computation of the number of runners required, and of the expense, and was then to charge every landlord in the district a sum proportionate to the sudder jumma which he paid. Now, that, he contended, was contrary to the principle of all previous legislation. If the present principle were adopted, he partly agreed with the Honorable and learned gentleman that the Bill did not go far enough. If the Council adopted that principle, let them make a clean breast of it, and impose taxation upon all landlords, not only for dawks, but for other police purposes. He was satisfied that such a principle was never contemplated in previous legislation; and with these few remarks he would submit for the consideration of the Council whether the Bill should be read.

THE ADVOCATE-GENERAL said, he felt some diffidence in addressing the Council on a matter of this kind, for it was foreign to his knowledge and came before him quite newly. Perhaps, however, he might be allowed to say a few words in pointing out what he thought to be an important error in the reasoning upon which the reading of this Bill was opposed.

He assumed for a moment that the construction which he understood it was contended ought to be put upon Regulation XX 1817, was a correct construction, namely, that the burden of conveying Police Dawks should be borne exclusively by those zemindars through whose lands the dawks were conveyed. The deduction drawn from that construction was that, because hitherto the burden had fallen only upon those zemindars over whose lands dawks had been conveyed, therefore this Council in dealing with the proposed amendment of the law, was to adopt the principle that those burdens ought for the future to be limited to those zemindars. Now, assuming, as he said before, that that construction was a correct one, he thought that it was high time that the law should be altered The principle appeared to him to be plain This charge was not in any sense attached to the Post Office Revenue. It was strictly in the nature of a police charge, and he could not understand upon what principle a charge rendered necessary for the public purposes of a district, having relation, as this had, to the carrying out of criminal justice, should be a burden upon a section rather than upon the whole of the landholders of that district. When you once admit the principle, that for such a purpose a charge should be borne, either by the whole or by a certain portion of the landholders, it appeared to him that there was no question as to the equity and the justice of charging payment upon the whole of the landholders, and not upon a particular section. He had so far argued the question upon the assumption that the construction which had been put upon the legislation of 1817, was a correct construction. He begged leave to say, however, that he entirely differed as to the legal construction of that Regulation. What the practical construction might have been, he could not say. But neither upon the face of this Regulation, nor in its terms, was there any thing to lead to the conclusion that it was intended that only those zemindars, through whose lands dawks were carried, should be at the expense of providing pykes and peons. From what fell from the Honorable Member who moved the reading of the Bill, he arrived at this conclusion, that in some districts, where the whole of the zemindars had come forward and agreed to commute for a monthly payment, and where such good results had followed, the landlords did not put the same construction upon the Regulation which it had received at the hands of those who oppose the present Bill. He should certainly give the Bill his support.

THE PRESIDENT wished to inform the Council that, when a former Bill on the same subject was brought before the late Council, the Bengal Government, anticipating some such objections as had to-day been raised, sent the proposal to the British Indian Association, asking them for their opinion and advice, as representing persons interested in the Bill. That Association, looking at the Bill in a large and liberal spirit, and seeing the objections to it that had been now taken, gave it as their opinion that the Bill was one that ought to be enacted, because it was one which did not impose any new burdens, but only equalized existing ones. As regards the construction which had been placed upon the Regulation so often referred to in this discussion, although the Advocate-General was of opinion that it was not a sound one, he believed it had been universally acted upon, and that the burden fell at present upon those zemindars only through whose lands the road ran upon which the Zemindary Dawks happened to be carried. But suppose the Government were to make a new road—and he wished they could make many more roads—and

were to run one of these dawks along it, then many zemindars not now liable, would immediately become chargeable with these burdens. He believed that, if the zemindars of any district were to meet on the subject, taking a reasonable view of it, they would adopt the arrangement themselves, which this law would enforce over the whole country. He therefore should vote that the Bill be read.

The Motion was carried, and the Bill was referred to a Select Committee consisting of Mr. Peterson, Rajah Pertaub Chand Sing, Baboo Prosonno Coomar Tagore, and the Mover.

COURTS OF SMALL CAUSES

MR. FERGUSSON, in moving that the Bill to amend Act XLII of 1860 (for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter,) be read in Council,—said that the necessity of the amendment which he proposed, had arisen from the limited jurisdiction which those Courts at present enjoyed. In the fourth Section of the Act which he proposed to amend, it was provided that the defendant must be personally carrying on business within the jurisdiction at the commencement of the suit. Now the difficulty that arose was as to the word "*personally*" At present a person absent from the locality was not liable, even although he carried on his business in the locality through a resident agent or manager, while he himself lived without the jurisdiction. Any such restriction was calculated to cause a failure of justice, and there seemed to be no reason why such a person as he described should not be made amenable to the local Court. He begged to move that the Bill be read.

BABOO RAMAPERSAUD ROY thought it very desirable that a Bill like the one proposed by the Honorable Member should be read by the Council.

MR. PETERSON said that, when an Act was passed, giving jurisdiction to any Court, that jurisdiction should not be too much fettered by the letter of the law. He did not think that Clause I, as it at present stood, was satisfactory, inasmuch as it provided that only such persons should be deemed to be within the jurisdiction, as resided within it at the commencement of the suit. In the Mofussil Courts there were two grounds of action: one was where the cause of action arose within the jurisdiction, and the other was where the defendant was within the jurisdiction at the commencement of the suit. He would venture to submit to the Council that there ought to be a similar provision in the proposed Bill. A great mistake had been made in limiting the jurisdiction of the Supreme Court to persons resident within its jurisdiction at the time of the commencement of the suit: and he thought certainly that the jurisdiction ought to extend to persons resident at the time of the arising of the cause of action.

MOLVY ABDOOL LUTEEF quite concurred in the opinion expressed by the Honorable and learned Gentleman, that it would be advisable to extend the jurisdiction in the way he proposed.

THE PRESIDENT thought that Section I was intended not to restrict but to enlarge the jurisdiction in one point. The further enlargement proposed by the Honorable and learned Gentleman, he believed, had been considered in the old Council, and, as far as his memory served him, was considered objectionable. It would not be fair, for instance, to a person residing to-day in Calcutta, who might go to-morrow to Lahore or Delhi, that he should be liable to be sued in the Calcutta Small Cause Court, when there was a similar Court in Delhi or Lahore. However, that was a proper subject for the consideration of the Select Committee.

The Motion was then put and agreed to.

The Advocate-General, Baboo Ramapersaud Roy, and the Mover were nominated to act as Members of the Select Committee to whom the Bill was referred.

RECOVERY OF RENTS.

MR. LUSHINGTON, in moving that the Bill to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal,) be read in Council, said that, having already on a previous occasion expressed at length the objects of the measure, he would not trespass further on the time of the Council. He would simply move that the Bill be now read.

MR. MAITLAND felt great pleasure in supporting the Motion of the Honorable Gentleman. As a general rule, he admitted that a discussion on matters of detail had better be held after the Bill came from the Select Committee. At the same time the subject of the present measure was so important that he did not like to give a silent vote upon it. He thought that when the Bill went into Committee, one or two of its Clauses would require most careful consideration, and that the Act which it was proposed to amend would require still further revision. There were, however, several very beneficial amendments contained in the present Bill, to which the Honorable Gentleman referred when he moved for leave to introduce it. He himself considered it very proper that, when suits were defended without reasonable grounds, damages should be allowed to the plaintiff in the case of a frivolous and vexatious defence. He thought also that the provision in the Bill with regard to the measurement of land was only fair, and he also approved of the Section under which fees to agents were to be counted as costs in a suit. These appeared to him to be the principal alterations which the Bill proposed upon the old system. Believing all of them to be very good alterations, he had great pleasure in supporting the Bill. There was one part of the Bill that appeared to him a little ambiguous, and that was the Section which referred to execution to be issued against the person or property of a defendant, when a decree had been given against him: but that would no doubt be carefully considered by the Select Committee.

MOULVY ABDOOL LUTEEF moved an amendment. He said he was quite aware of the state of things which had called for the proposed law, and equally felt the importance of suppressing that state of things. Indeed, if the parties guilty of bringing it about did not sooner and by gentler means come to their senses, he would be the first person to advocate a much severer penalty than was proposed in the first Section of the Bill. Order must be preserved at any cost, and the enemies of it brought to certain punishment. For a considerable time, in some places in the Indigo Districts, the ryots had in a body withheld rents, and they had refused to pay except through the Courts. Unable to appreciate the spirit of consideration shown towards them by the Government, their ignorant minds had vainly fancied that they had been rendered above the law. Now was the time, therefore, to make them understand, that the same power which gave them the rights which belonged to them, would not allow them to tamper with those of others. The Government admitted of no excuse for delay in the payment of its revenue by zemindars,—it was but fair that it should afford to the latter all proper facilities for collecting *their* rents. The existing law was unequal to the necessities of the case. It was impossible to bring a whole population to Court,—the Courts must be multiplied *ad infinitum* before it could be done with any prospect of speedy justice: and, if it were possible, so great would be the expense, inconvenience, and delay to the zemindar of collecting rents in this way, that he would find himself a great loser in the end. He could not long go on collecting thus, and his zemindary might be sold by the Collector, before he had got execution of his decrees. For these reasons, he would not oppose the passing of the Bill. But at the same time, he would remind Honorable Members, that the case was a special and temporary one, and he wished that the law proposed should expressly declare

that it was only a special and temporary remedy for a special and temporary disease. Honorable Members were aware how liable the best laws were to be abused in this country, and how little time it took here for an enactment to be degraded into an instrument of extortion and oppression in the hands of unprincipled men, and inexperienced and careless administrators. The ryots of only two or three of upwards of thirty districts of Bengal had sinned. Let them be punished by all means. But why render the innocent ryots of the remaining districts liable to suffer for the sins of others of an *infinitessimal* minority of the ryots of Bengal? There was no reason whatever for making Section I of the Bill a permanent general law, indeed, it would be a great evil to the country if it were so made.

He moved, as an amendment, that the Bill be referred to a Select Committee, with instructions to introduce a Section to the effect that the local Government be empowered to introduce Section I of the Bill into any particular district for any fixed period of time that might be necessary.

BABOO RAMAPERSAUD ROY thought that the Bill was one of very great importance, and although he did not object to its general scope and principle, he hoped he might be allowed to make some observations with reference to its details. There was no doubt that Act X of 1859 required some amendment. The time had not come for re-casting that law, as the limited period during which it had been in operation had not afforded opportunity for judging of its practical effect on the relation between landlord and tenant. At the same time, he must confess that the present Bill did not contain all the amendments of which the Act was susceptible at the present time. That deficiency, however, he hoped would be supplied in the Select Committee. It was, therefore, not his intention to oppose the reading of the Bill. With regard to Section I, he thought it necessary to say that it appeared to him unsatisfactory and incomplete. Honorable Gentlemen would recollect that this was not the first time that penalty clauses had been introduced into Bills of a similar character. The old Sale Laws had enacted a similar penalty, which was found unsuccessful for the punctual realization of the revenue. Landholders defaulted even at the risk of paying the penalty. But by the Acts of 1841, 1845, and 1859, penalty clauses had been abolished, and the realization of revenue left, as it ought to be left, upon the true principle which all along was recognized, that the land from which revenue was produced ought to be primarily and alone answerable for that revenue. Since then, the revenue had been punctually recovered by fixing a date for its payment, after which the lands were held forfeited. Now it appeared to him that it was dangerous in the first place,—and he need not mention to Honorable Members present that they had not good machinery in the Mofussil,—that any discretion should be left in a matter of so much importance with the existing machinery. The Clause itself, as it stood, gave a latitude and a discretion in the infliction of a penalty, so great that the Council ought to hesitate before giving such a power to the existing machinery. The course of legislation in civil cases had of late years been to do away with penalties, and the result had proved highly satisfactory; and it would be against all principles of enlightened legislation to revive them Looking at the machinery which they had at present, it appeared to him preposterous, or at any rate not quite safe, to place such immense power in the hands of those on whom would devolve the duty of administering the law. The other objection he entertained to the Bill was the insufficiency of the remedy proposed. In his opinion, the true principle to act upon would be a modification of the Government system of realizing revenue; for experience had proved that in the realisation of Government revenue, although pecuniary penalties had been done away with, the revenue had been realized more easily than before. Now, why should

Moulvy Abdool Luteef

not a similar principle be applied in the case of landlords? At present the Government fixed a day for zemindars to pay their *quota* of the revenue, and, if they did not pay on that day, their lands were liable to sale. Why should landlords not have the same facilities afforded them for collecting their rents? He did not mean to say that the same summary process should be left in the hands of the zemindars, but under proper safeguards a facility might be afforded to them similar to that enjoyed by the Government. At present landlords could not realize their rents without having recourse to a Court of law, and practical experience had proved that to be a source of great delay. If such power, as he proposed, were to be conferred upon the zemindars, it ought not to be exercised without a decree of Court as a safeguard against oppression and injustice. At present if a zemindar put his ryot into Court, he was fortunate if he succeeded in getting a decree in less than two months: while, if he failed to pay his share of the revenue to the Government, his estates were liable to forfeiture. The difference in the position of the two may be easily conceived, the Government having to deal with one man, while the landholder had to collect from hundreds of his tenants. It was only fair, therefore, for landlords to demand a speedier remedy, that they might not be placed in the position of being held at arm's length by their ryots, while they themselves were liable to incur a severe penalty. Why, in many cases a contumacious ryot, who chose to fight his zemindar and to keep him from his money, would willingly pay 25 per cent. to evade payment for two or three months: or, if the ryot could not pay, he would be glad, in order to spite the zemindar, to go to jail, where perhaps he would be better off than at home. The former law and practice gave landholders the power to arrest the person of the defaulter, by taking out a dustuck on a bare application to the Collector. This, no doubt, was facility enough; but experience had shown that this power was abused in many cases, and hence it became necessary to prescribe rules in Act X of 1859, by which practically a landholder was obliged to bring a suit for the recovery of his rent. But it appeared to him just and proper that all possible facilities should be afforded to the landlord, consistently with this restriction. As the law at present stood, a common tenant, although he might be a defaulter for the whole year, could not be ejected except at the end of that year, while the estate of the landholder might be intermediately brought to sale four times for his default to pay the Government revenue. The object of legislation should not be to multiply suits between landlord and tenant, or to set the one against the other; on the contrary, the object ought to be to induce the tenants to pay their rent punctually; and what measure, he asked, would work greater success than the certainty of losing one's tenure if the rent was not paid before the date of the decree? and, after all, this would be simply a partial application of the remedy which had been attended with complete success in the analogous case of Government revenue.

For these reasons he did not consider the proposed remedy to be a complete one, and he thought that, if they were to legislate on the subject, they ought to avoid mere local, class, or special legislation, and to legislate for the whole country under all circumstances that might occur. He would suggest that, after a decree of Court, the zemindar should be at liberty to eject the ryot if he held on an unsaleable tenure, or to sell the tenure if it were saleable. Such legislation would, he had no doubt, give universal satisfaction. It was his wish, as it was his duty, so long as he had the honor of being a Member of that Council, to aid in the carrying out of any plan for securing the rights of the ryots; but at the same time it was no part of his duty to protect the ryots at the expense of the interests of other parties. He would only again repeat that the real remedy which the case required was to make the remedy

of the landlords analogous to that possessed by the Government against them. He would beg leave to move as an amendment,—that this Bill be referred to a Select Committee, with instructions to strike out Section 1, and to introduce Sections to facilitate the realization by a landholder of what was due from a ryot against whom a default was established by decree of Court, by the ejectment of the ryot from his tenure, if the tenure be not saleable, and by sale of his tenure, if it were saleable.

MR. PETERSON said, that with great deference he would observe that there were now two amendments before the Council, and perhaps it would be more convenient if, instead of amendments being proposed on details, the sense of the Council were taken on the preamble of the Bill. If upon every clause, Honorable gentlemen were to propose amendments, they would never arrive at what was the present business of the Council, namely, the consideration of the principle of the Bill These matters of detail were perfectly open to discussion when the Bill came from the Select Committee, and he did not think that the business of the Council would in any way be facilitated by moving amendments to different Clauses at the present stage of the measure. He wished, however, to offer a few observations upon the general principle of the measure. He had no doubt that the principle proposed to be introduced was a correct one, but it might be doubtful whether the clauses of the Bill would carry out that principle. By Section 1 it was provided that penal damages might be awarded in any suit for rent under Act X of 1859, in which it appeared that the plaintiff was entitled to the full amount of the rent claimed by him. Now he thought it was a great hardship upon the zemindar, that he should be compelled to get a decree for the full amount of his claim. The zemindar might sue for one hundred Rupees for rent, and if the tenant refused to pay any thing, it was just possible that the zemindar might recover only ninety-nine Rupees, and yet by the wording of Section I he would be deprived of the remedy given by that Section. It appeared to him more reasonable that the landlord should be entitled to the remedy proposed by Section 1, in all cases in which the ryot should neglect to pay, or to deposit, what he admitted to be due. Then the expression "reasonable excuse" was vague, and law should always be definite and positively laid down As regarded the question of penal damages to an amount not exceeding 25 per cent. on the rent decreed, it might well happen that persons would rather be liable to that penalty than pay their rents,—for money might command a far higher interest if let out on loan. Until an Act of the Council in 1855, in the Supreme Court no interest ran upon judgments, and the consequence was that numbers of persons were only too glad to have judgments outstanding against them. He thought, therefore, that the penalty was hardly sufficient. Now, in law there existed instances in which parties improperly contesting suits were liable to double or triple costs, and he thought that it was only reasonable that a heavy penalty should attach to a ryot, provided he did not pay within a certain time after the rent became due. He would call the attention of the Council to Section IV of this Bill, which, he thought, should be taken in connection with Section I. It provided that the defendant in any suit under the Act might pay into Court such sum of money as he should think a full satisfaction for the demand of the plaintiff, without paying in any costs incurred by the plaintiff up to the time of such payment. Now that Clause, he thought, afforded a direct permium to the fraudulent ryot, who wished to put his landlord to expense. He could at once do so by forcing him to institute a suit, and at the last moment paying the money into Court. He thought that, with some alterations, a fair and proper provision might be made, embracing the elements contained in these two Sections. A Clause might be drawn up to provide that in all cases of claim made, it should be lawful for the ryot

to make tender, at the mál kutcherry of the zemindar, of the sum which he considered due, at any time before action brought: and that, if he had failed to make such tender, he should after action brought be allowed to pay into Court the sum he admitted to be due, together with the costs incurred, according to a scale to be fixed by the Judge of the district. He himself had had some Mofussil experience, and he knew that on small rentals a suit in Court generally involved expenses to the extent of at least 25 per cent. on the amount recovered. He himself did not wish to go further into the principle of the matter. It was admitted on all hands that there must be such a remedy against a defaulting ryot as would enable the zemindar to pay his *kist* to the Government. It was an old established principle, that the debtor ought to seek his creditor, and if he did not do so, the creditor ought not to be placed in a worse position than he would have been if the debtor had fulfilled his duty. He felt himself compelled to make these observations, because perhaps he would not have another opportunity of expressing his views. He would not occupy the time of the Council any longer, but having spoken on behalf of the zemindars, he felt it to be his duty to state that in his opinion Section II bore somewhat too hardly upon the ryots. He considered that the time specified, namely, 15 days, was too short, he ventured to suggest that it might advantageously be extended to 30 days. Dishonesty must not be presumed from so short an absence as 15 days: for it was very possible that, from various causes, persons might be absent for that period, and if it was a *bonâ fide* absence on service, or upon private matters, it would be scarcely fair to deprive the absentees of the power of bringing forward their claims. He thought, therefore, that the period might advantageously be extended to 30 days. He did not wish to make any comments with regard to Act X of 1859: it was the law of the land, but at the same time he should be glad to see the present Bill passed even as far as it went, for it was an attempt to remedy mischiefs which undoubtedly existed. Many of the details of the Bill would, he had no doubt, be beneficial in the extreme, and altogether the Bill would be a great improvement on Act X of 1859. With these remarks he would leave the consideration of the details of the Bill to the Select Committee, and he could only say that, although the Bill dealt with many defects of Act X of 1859, he hoped that, when it came from the Select Committee, it would be found to have dealt with them in a more tangible shape.

THE PRESIDENT said that, upon the question of practice raised by the Honorable and learned gentleman, he might say that the two Honorable Members were perfectly in rule in moving their amendments. But he entirely agreed with him, that it would certainly be more convenient if Honorable Members were to reserve such amendment until the Council came to the settlement of Clauses after the Bill came from the Select Committee. It was very possible that the Select Committee might introduce many of the amendments which Honorable gentlemen had in their minds, and therefore he thought that it would be better and more convenient if the power which Honorable gentlemen undoubtedly possessed, were restricted to cases such as the one which arose at the last meeting of the Council. At that meeting a very proper Bill was brought forward, which contained one erroneous Clause which it was felt not desirable to publish as having been even read in Council, and an amendment to refer the Bill to a Select Committee, with instructions to strike out the objectionable Clause, was adopted. That was the sort of case to which this rule was intended to apply. He himself agreed with the principle of this Bill, and generally the excellent remarks which had fallen from the Honorable and learned gentleman who spoke last met with his concurrence. But there was one remark which fell from him from which he (the President) differed. The Honorable and learned gentleman objected to its being made requisite, in order to obtain the benefit of Section I,

to obtain a decree for the full amount claimed. Now, he (the President) thought that the provision for penal damages was entirely a right one. It was fully a year since he recommended a similar provision to the late Council. Why it was not carried into effect he did not know, for it appeared to him to meet with very general approval. There were certainly objections raised to it by some, of the same character as those which he had heard to-day. Objections were felt to the introduction of penal damages as contrary to ordinary principles: but looking at the position of the zemindar, looking at his liability to forfeit his estate, if he failed on a fixed day to pay his quota to the revenue, he (the President) thought that they were bound to give him every facility for realizing his rents. They knew that in certain places the zemindar experienced great difficulty in getting in his rents, and they were bound to give him every assistance, and that, he thought, they were doing by the introduction of penal damages where the zemindar was forced into Court to obtain his lawful demand. If this Section prevented his obtaining his just due when his claim had exceeded the sum decreed, it would, indeed, be open to objection. But in this case he would get his full due; it was only penal damages that he would not get in cases of excessive demand; nor would they be allowed in cases where it was evident that the amount of rent was questioned *bonâ fide* by the ryot, who was willing to pay what he considered to be due from him. In a great many of the cases of arrear, it was found that the arrear arose from more being demanded than was admitted to be due, and from less than was demanded not being accepted. In such cases, where too much had been demanded, there was no ground for penal damages. He agreed with the Honorable and learned gentleman in what fell from him with regard to Section IV. He thought that it was intended to apply in the way he mentioned, but that there was some error in the wording. That, however, would be amended by the Committee. The object was that the party forced into Court should be absolved from payment of the costs of the suit. He also agreed with the opinion expressed by the Honorable and learned gentleman that, considering the great loss the ryot was liable to suffer, 30 days was not too long a period to allow him to make an appearance. He thought that sufficient had been said in support of Section I, and that it was, therefore, unnecessary for him to say any more on the subject. He could not quite follow the objection which had been raised, that our Courts were so imperfect that it would be unsafe to entrust the Mofussil Judges with the power of enforcing penal damages. The Honorable gentleman who raised the objection to entrusting those Judges with the power of inflicting the slight penalty of penal damages to the extent of 25 per cent., immediately afterwards proposed to entrust them with the power of inflicting the overwhelming penalty of entire confiscation. He confessed that he saw no force in that objection, and he should cordially vote for the reading of the Bill.

MR LUSHINGTON said, that as the first speaker had not objected to the principle of the Bill, it would not be necessary for him to follow the arguments which he had adduced. Another Member had objected to Section I, as being incomplete and unsatisfactory, and he had said that a ryot, after decree had been given against him, would rather go to jail than pay the amount. Now that was by no means in accordance with the usual practice of the ryot. As a matter of fact, he came to Court with the money in his hand, and paid it after decree had been pronounced against him, for then he had gained the object he had in view, of putting the zemindar to trouble and inconvenience. This was the evil to be met, and the provision of penal damages would meet it. But the process which it had been proposed to substitute would not meet it. Having on a previous occasion expressed himself at some length on the subject, he would not further trespass on the time of the Council.

The President

The original Motion was then put and agreed to, and Mr. Young, Mr. Peterson, Mr Maitland, Baboo Prosonno Coomar Tagore, and the Mover were nominated as the Select Committee.

CALCUTTA PORT-DUES.

MR. YOUNG, in moving that the Bill to amend Act XXX of 1857 (for the levy of Port-dues and fees in the Port of Calcutta) be read in Council, said that he was aware that it had been a subject of complaint that the Port-dues in Calcutta were already heavy. However much this was to be regretted, it could not be avoided in consequence of the very great expense which it was necessary to incur from the number of buoys and lights required and from other causes. Before it was proposed to levy an additional tax, every effort had been made to reduce the expenditure, but it was found to be impracticable, except to a very limited extent. The Government had also been induced to make over to the Port Fund the profits accruing from the hire of chain moorings, which had averaged about 25,000 Rupees a year. The rates of salvage had also been increased by 10 per cent. all round, and the hire of anchor boats raised from 18 Rupees to 30 Rupees per diem. But a very large deficit remained, which there was no means of meeting, except from the Port-dues. The present Bill proposed to increase the rates of the Port-dues from a maximum of four annas to a maximum of eight annas a ton, and he begged to move that it be read in Council.

MR. BULLEN considered that some further explanation was necessary. He himself was not satisfied that the expenditure could not be reduced, or that the deficit apparent in the papers before the Council was established. It was his duty to make himself sure that the present rate was unavoidably inadequate, before consenting to the imposition of an additional charge upon the shipping; and he thought that full accounts should be laid before the Council.

THE PRESIDENT said that if the Bill were allowed to go to the Select Committee all papers, accounts, and necessary information would be furnished to them.

Mr. Bullen consenting, the Motion was agreed to, and Mr. Fergusson, Mr. Bullen, Mr. Maitland, and the Mover were nominated the Committee.

SIGNALS FROM VESSELS IN THE RIVER HOOGHLY.

MR BULLEN moved for leave to bring in a Bill to enforce the hoisting of signals by Vessels passing Signal Stations established within the River Hooghly and the branches thereof. He said that the Bill proposed to enact that Masters of all Vessels passing any Signal Station within the River Hooghly, or any navigable channel of it, should be compelled to show their vessels' number. The Bill was a very simple one, and he believed it to be perfectly unobjectionable in principle. A similar Bill was brought before the late Council, and was rejected on the second reading, and perhaps he might be allowed to state that the grounds on which the measure was recommended had not then been fully set forth. The Bill of 1859 had its origin in a suggestion which had been made by the Superintendent of Marine, and which arose from one of the China steamers with the mail on board having anchored for a whole day at Saugor, under the pretence of some accident. In that case, as the Master showed no signal, the arrival of the mail was not reported in Calcutta. It was then recommended, by the Superintendent of Marine, that Masters should be compelled to hoist their signals, and that recommendation was approved of by the Chamber of Commerce. On the discussion on the Bill when it was introduced, he did not find that any important reasons were urged against the principle of it. Sir Barnes Peacock did not pronounce against the principle of the Bill, but what he said was that sufficient reasons had not been advanced in its support: and other Members taking the same ground, the Bill was rejected. It might be more important, perhaps, to

the general public to be apprized as early as possible of the arrival of the mail: but it was also of the highest importance to merchants that they should receive the earliest information as to what ships had arrived in the river, and as to the time at which ships outward-bound left the Sandheads. The Honorable Member mentioned several instances in which inconvenience had been experienced by the omission to hoist the signal. He proposed that the Bill should be applicable to foreign, as well as to British, vessels.

MR. MAITLAND thought it would be of great advantage to the public that a Bill of this nature should pass. He would have hardly thought it necessary to say one word in support of it, had not there been some discussion on the subject out of doors. It had been said that there was no object or necessity for bringing in a Bill of this kind. Now he maintained that great inconvenience to merchants had practically arisen from the want of such a Bill, and he would heartily support the motion.

The Motion was put and agreed to.

REGISTRATION OF UNDER-TENURES.

MR. YOUNG, in moving for leave to bring in a Bill to amend Act XI of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency), said that from some causes, among others from ignorance of their effect, the registration clauses of that Act had been almost inoperative. Measures had recently been taken to make known the provisions of that Act, and the Collectors had been directed to levy fees at a lower rate than the full rate authorized by the law, which had hitherto been taken on all applications. It was desirable to see how this Act, when properly understood, and when the objection of a high rate of fees had been removed, would operate, and for that purpose it was necessary to extend the period during which registration could be made. The period fixed in Act XI of 1859 was three years from the passing of that Act, and the present Bill proposed to prolong that period for three years more.

The Motion was put and agreed to.

SURVEY OF STEAMERS IN THE PORT OF CALCUTTA.

MR. FERGUSSON moved for leave to bring in a Bill to provide for the periodical Survey of Steam Vessels belonging to the Port of Calcutta.

The Motion was put and agreed to.

HOUSE OF CORRECTION AND GREAT JAIL AT CALCUTTA.

The Report of the Select Committee on the Bill for the better enforcement of discipline in the House of Correction and Great Jail at Calcutta was brought up. The 15th Rule having at a former meeting of the Council been suspended in order to facilitate the introduction of this Bill, the revised Bill was now, on the motion of Mr. Fergusson, read in Council, and referred to a Select Committee, consisting of the Advocate-General, Mr. Bullen, and the Mover.

The Council then adjourned.

Saturday, February 22, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

A. R. Young, Esq.,
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
Baboo Rama Parsaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
Rajah Pertaub Chand Singh,
and
Baboo Prosonno Coomar Tagore.

SIGNALS FROM VESSELS IN THE RIVER HOOGHLY.

MR. BULLEN begged to move that the Bill to enforce the hoisting of signals by vessels passing Signal Stations established in the River Hooghly and the branches thereof, be read in

Council. Having stated at the last Meeting of the Council the grounds upon which the measure was founded, it was scarcely necessary for him to-day to detain the Council by any further remarks upon the subject. He wished, however, to make a few observations with regard to some of the Clauses of the Bill. The second Clause proposed to enact that any Master or Captain of a vessel, who should refuse or neglect to hoist his signal, should be liable on each instance of refusal or neglect to a penalty not exceeding 1,000 Rupees, or to imprisonment not exceeding sixty days in the Civil Jail, or to both. Now that Clause he adopted from the Bill which was drafted by the late Legislative Member for Bengal, but upon consideration it appeared to him somewhat too stringent. It was true the amount of the penalty was left to the discretion of the Magistrate, but it did not follow that because the power was vested in the Magistrate, he would necessarily use it. Still it might be thought that for such an offence, under any circumstances, such a penalty was too severe. Should such be the feeling of the Council, he should have no objection to meet that view. The fifth Clause might require some verbal amendment, so as to define more clearly what was meant by the expression "a ship carrying Mails," but that was a question for the consideration of the Select Committee. He might also remark that this Bill would not apply to any vessels of war, whether British or Foreign, and he now begged to move that it be read in Council.

MR. FERGUSSON said that this Bill applied generally to all Merchant Vessels, whether inward or outward-bound. The Marine authorities and the Chamber of Commerce appeared to have officially represented that the general interests of Commerce and of the public required that the name of every vessel, without exception, should be signalled. No one appeared to object to that rule, so far as regarded all outward-bound vessels, and the great majority of those which were inward-bound; but he had heard it said that the obligation to signal the names of certain inward-bound Steamers from China would tend in some respects to interfere with private enterprize. Now, granting that this might be the case, it appeared to him that the question for our consideration was whether sufficient public reasons had been shown to warrant this alleged interference. He certainly thought there could be no question whatever that the entire Mercantile Community of Calcutta must be interested in hearing of the progress of vessels carrying their merchandize. Further, every Merchant Vessel was bound by law to carry the public Mails, and the fact of the arrival of those Mails must be a subject of great public interest which ought never to be concealed from the public, even for the sake of advancing the private interests of a few, and increasing the gains of a small minority of speculators in opium. He thought that sufficient public grounds had been shown in favor of the Bill, and he would vote in support of it.

MOULVY ABDOOL LUTEEF said, that it might perhaps not be expected that he should offer any observations on this Bill, inasmuch as it was thought by some that the only persons interested in it were the Merchants of Calcutta, the Pilots, and ship Captains. He believed, however, that every thing that affected the mercantile community was matter of interest to the whole country, and therefore he felt himself as much interested in the question as any one else. He cordially approved of the Bill, and should have given a silent vote in its favor, did he not fear, for any thing he knew to the contrary, that it might be successfully opposed. He sincerely trusted that it might not meet with the same fate that befel the similar Bill which was brought before the late Legislative Council. He had reason to believe that Masters of Vessels, by omitting to show their signals, aided fraudulent speculations, and it was highly necessary that such practices should be discouraged. He hoped the Council would give their assent to the reading of the Bill.

MR. MAITLAND said that, having at the last Meeting of the Council expressed his opinion in favor of the Bill, he should not have added anything now, but that some alterations had been made in it, since it was first printed. Believing those alterations to be improvements, he should be ready to support the Bill in its present shape.

The Motion was then agreed to, and the following gentlemen were nominated the Select Committee:—The Advocate-General, Mr. Young, Mr. Maitland, and the Mover.

REGISTRATION OF UNDER-TENURES.

MR. YOUNG moved that the Bill to amend Act XI. of 1859, (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency) be read in Council.

MR. LUSHINGTON had no objection to the measure, but he thought that it might be expedient for the Select Committee to take into consideration the propriety of reducing the rate of fees. He was perfectly aware that at present Government had power to reduce fees, but he thought that it perhaps might be advantageous to make the matter more public by attaching a revised Schedule to the Bill, stating the scale of fees to be taken on registration.

MOULVY ABDOOL LUTEEF entirely approved of the principle of the Bill. Act XI of 1859, which it proposed to amend, was one of the very best enactments that had been passed for many years. That Act supplied a *desideratum* which had previously been experienced, and it put an end to much injustice. Security to property was one of the chief foundations of social order, and the enlightened author of Act XI deserved the gratitude of the country. Unfortunately, however, the benefit offered by that Act to under-tenants of registering their tenures was, for one great reason, not taken advantage of. Few applications for registry had been made, and in that respect the Act remained a dead letter. The reason to which he had referred was the exorbitant rate of charge for registration. At present the man who owned a tenure of the value of one Rupee a year had to pay the same fee for registration as the man who had a tenure worth 500 Rupees a year. The rate of registration, however, he was happy to find, had, at the recommendation of the Judge of the 24-Pergunnahs, been reduced to its proper level, and the present Bill would be of great advantage in extending the limitation of time for registering. The measure evinced a humane anxiety on the part of Government for the rights of the people, of whom a large number were under-tenants. This Bill would afford those persons another opportunity of preserving their rights, and it would not be the fault of the Government if they chose to throw it away.

MR. YOUNG said that the Bill as originally drafted by the Board of Revenue had attached to it a revised scale of fees. The Government of Bengal considered it was not necessary that a law should be passed to authorise the proposed reduction of fees, and notifications had already been issued in the *Gazette* containing the Schedule of fees as it had been revised by the Board. The Schedule was advisedly struck out of the Bill, because it was thought that if any Schedule were attached to the present Bill it might throw some doubt upon the proceedings which had already taken place. He thought, however, that the question was one which might advantageously be taken into consideration by the Select Committee.

The motion was agreed to, and the following gentlemen nominated to act on the Committee: Baboo Ramapersaud Roy, Baboo Prosonno Coomar Tagore, and the Mover.

SURVEY OF STEAMERS IN THE PORT OF CALCUTTA.

MR. FERGUSSON, in moving that the Bill for the periodical survey of Steam Vessels belonging to the Port of Calcutta, be read in Council, said

that the object of the proposed survey was to ensure as far as possible security for the lives of passengers and safety for the property which might be shipped on board steamers belonging to or proceeding from the port of Calcutta. It appeared to him that such an object could not fail to commend itself to the approval of every Member of the Council.

Laws for the preservation of life and property were found to be absolutely necessary in Europe, and they appeared to be far more requisite in this country, where, owing to various causes, including the effects of climate on the constitution, carelessness was too apt to become the rule, while energy and watchfulness were the exceptions. He did not anticipate that any one would question the necessity or advisability of such a survey as now proposed. Should such question, however, arise, he would point to the lamentable loss of life which occurred only a few months ago on the Hooghly, owing to the bursting of the boiler of the steam tug *John Bull*,—an accident which, in all human probability, would not have occurred, if provisions similar to those contained in the proposed Bill had been in force. Soon after that accident, the Chamber of Commerce suggested to the Government of Bengal the introduction of a system of survey similar to that in force in England. That suggestion was supported by the Controller of Marine Affairs, and was at once adopted by the Lieutenant-Governor of Bengal, who desired that a Bill should be framed to enable him to act up to the suggestion of the Chamber of Commerce. The present Bill was the result, and in framing it he (Mr. Fergusson) had been guided very much by the English Merchant Shipping Act of 1854. The Bill provided for the survey of every steamer twice in each year, in order to ascertain whether the boilers and machinery were in order; if they were found to be so, a certificate in prescribed form would be given by the surveyors appointed by Government. The Bill also provided that the certificate should be suspended in a conspicuous part of the vessel. It imposed a penalty upon any one impeding a surveyor in the performance of his duty, and also on any surveyor who received any unauthorized fees. Upon the whole, the Bill was well calculated to secure the objects in view, without entailing any real inconvenience or trouble upon any one.

MR. MAITLAND approved of the principle of the Bill, but he thought it probable that some alterations would be required to be made when the Bill went into Committee. The present Bill went beyond the suggestion of the Chamber of Commerce, inasmuch as its provisions would apply, not only to all vessels belonging to the Port of Calcutta (which was what the Chamber of Commerce recommended) but to all vessels sailing out of it. It would include the steamers of the Peninsular and Oriental Company, of the Screw Steam Company, the China Steamers of Messrs. Jardine, Matheson and Company of Hong-Kong, and also the New French Steamers of the "Messageries" Company, which were soon expected here, if indeed the provisions of the Act could lawfully be applied to Foreign Steamers He did not express, at present, any opinion whether it was desirable that the Bill should have this wider scope, but he merely wished to point to the fact that it was proposed to do more than had yet been asked for.

BABOO PROSONNO COOMAR TAGORE said that it appeared doubtful whether private steamers came within the operation of the Act. He wished also to point out that under the Penal Code surveyors receiving unauthorized fees were liable to punishment, and therefore that any provision to that effect in this Bill was superfluous.

MR. FERGUSSON said that the Bill had been advisedly worded, so as to include all steamers plying from the Port of Calcutta, but that any verbal alterations might be made in Committee. With regard to the observations of the Honorable Member who spoke last, he would only say that the Bill was intended to apply to private steamers; and that while every

Surveyor might not have a copy of the Penal Code, he would certainly be supplied with a copy of this Bill, and the penalty being clearly mentioned in the Bill, there would be no excuse for misconduct on the ground of ignorance of the law.

The Motion was agreed to, and the following gentlemen appointed a Committee: The Advocate-General, Mr. Maitland, and the Mover.

RESUMPTION OF THE REVENUE OF LANDS, &c.

MR. FERGUSSON moved for leave to bring in a Bill to repeal Section XXX of Regulation II. 1819. (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).

The motion was put and agreed to.

The Council then adjourned.

Saturday, March 1, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding*
T. H. Cowie, Esq., *Advocate-General*,
A. R. Young, Esq.,
H.D.H.Fergusson, Esq.,
E. H. Lushington, Esq.,
Baboo Rama Persaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
J. N. Bubleu, Esq.,
W. Maitland, Esq.,
Rajah Pertaub Chand Singh,
and
Baboo Prosonno Coomar Tagore.

RESUMPTION OF THE REVENUE OF LANDS, &c.

MR. FERGUSSON moved that the Bill to repeal Section XXX of Regulation II. 1819 (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made) be read in Council. Under Section XXX of Regulation II. 1819, certain civil suits regarding land held or claimed to be held free of assessment might be instituted either in the ordinary Courts of Civil Judicature or in the Revenue Courts. If instituted in the ordinary Courts, the law required that every suit without exception should be referred for investigation to the Collector, who, after holding certain proceedings and recording his sentiments in the case, transmitted it back to the Court by which the reference had been made to him, and that Court had power to call for further evidence before coming to a decision. If in the first instance the cause was preferred direct to the Collector, then the law permitted either party to appeal from the Collector's order to the ordinary Civil Courts; and this course was followed in nearly every case. That double jurisdiction and investigation might have been necessary in former days in order to secure the just rights of the Government in the land revenue. That cumbersome sytem, however, had ceased to be of any advantage whatever, and, on the contrary, it had been found to entail great inconvenience and expense in the decision of suits. It seemed advisable that there should be, as far as possible, a uniform course of procedure in civil suits of every description, and the Bill proposed that, in future, suits under Section XXX of Regulation II. 1819 should be instituted, heard, and determined in the ordinary Civil Courts, in the same way as other civil suits. But an unusually large number of such suits had recently been instituted in consequence of the Limitation Act of 1859, and in the two Collectorates of Burdwan and Hooghly there were at present no less than 4,330 of these suits pending. If there were to be a double investigation in each of

Mr. Fergusson

those suits, many years might elapse before they were all reported on by the Collectors and finally decided by the Courts. In order to prevent that great delay, and to relieve the Courts of Revenue of what was in fact an unnecessary duty, it was proposed that the present Bill should be retrospective in its effects, so as to allow all pending suits instituted under Section XXX of Regulation II. 1819 to be taken up at once and decided by the ordinary Civil Courts. Such a course could not injuriously affect the rights of any one, and as it seemed to him to be perfectly unobjectionable, he begged to move that the Bill be read in Council.

BABOO PROSONNO COOMAR TAGORE rose to address the Council—not to oppose the Bill, but to propose an amendment, with a view to extend its provisions so as to repeal the entire Regulations, II. 1819, and III. 1828. It was no doubt known to many of the Members, that by Clause 3 Section VIII of Regulation I. 1793, which was emphatically called the charter of the permanent settlement, it was provided that the revenue which might be assessed on invalid rent-free tenures, exclusively belonged to the Government. By Section VI Regulation XIX. of the same year, it was provided that the proprietors with whom the permanent settlement was made, should be entitled to the revenue of such rent-free lands, if the quantity thereof were below 100 beegahs. Thus the reservation made by the Government, by the charter act of the permanent settlement, was relinquished in favor of proprietors as regarded the assessment of parcels of land not containing more than 100 beegahs: and it was relinquished for the improvement of the resources of the proprietors, to make the payment of the Government revenue on their estates easy. Under the provisions of those laws, suits for the assessment of invalid rent-free lands were to have been instituted in the *ordinary Civil Courts*, both on the part of the Government and that of private individuals, and the usual proceedings were made applicable thereto. As a premium for industry in prosecuting resumption suits, a commission of 25 per cent. on the amount of one year's revenue assessed on lands so resumed, was allowed to the Collectors. The zemindars, also, were encouraged to resume lands under 100 beegahs by being enabled to appropriate the revenue of such to themselves. The poor lakhirajdars were thus subject to a crossfire from these powerful parties.

Matters stood in this condition until 1819, when special laws were passed, followed up by still more rigorous ones in subsequent years, namely, Regulations II. 1819 and III. 1828. Section XXX of Regulation II. 1819, which it was proposad to repeal, was, but *a part* of a law relating to the claims of proprietors to assess rent-free tenures. The two laws entirely debarred the interference of the ordinary Civil Courts in suits instituted on the part of Government: and a new tribunal, new Judges, and new Appellate Courts, were established. The Collector, in the trial of these suits, assumed a diversity of characters. He first searched out the land that was liable to assessment, and was thus an informer before his own tribunal; next he appeared as a plaintiff before himself for prosecuting the suit and collecting evidence, when he became the Judge to decide the suit; and, lastly, he assumed the character of the sheriff, to execute his own decrees. Against this state of things petitions were some time ago presented to the Local Government by Rajah Rammohun Roy, at the head of a considerable number of landholders, and he would read an extract from the Despatch of the Government on the subject:—

126. Among the petitions against Regulation III. 1828, which have been noticed in a preceding part of this Despatch, there is one which we have stated to be anonymous; we have now to notice that an exact duplicate of that petition has since been presented to us, with the signatures of above 200 individuals annexed to it, accompanied by a letter addressed to our Secretary in this Department by four natives, named Dwarkanath Tagore, Kalinath Roy, Prosonno Coomar Tagore, and Rammohun Roy.

Revenue Consultations, 29th September, Nos. 6 and 7.

127. The intelligence of the above named individuals is acknowledged to be much superior to that of the native aristocracy in general: however much, therefore, *we may doubt whether any considerable number of the petitioners are capable of understanding the arguments which it contains*, we are not the less disposed to give due consideration to the expression of the sentiments of such individuals on a question which so generally affects the interests of the native community as well as those of the State.

Although the intelligence of certain of the petitioners was acknowledged, yet it was doubted whether any considerable number of the petitioners were capable of understanding the arguments which it contained, and the petition was coolly rejected. But see the remarks of the Court of Directors on the point, embracing the objections of the Local Government, and the Court's replies :—

Letter from the Court of Directors to the Governor-General, 28th September 1831.

21. But you go farther in your objection to the decisions of the Courts. You say it was not uncommon for them to decide *with a wrong bias*, and that they miscalculated the relative value of different articles of evidence, treating as decisive matters of minor importance, and overlooking circumstances in which the merits of the case were involved.

22. The first subject of your complaint, that of *a tendency on the part of the Judges to manifest their independence of Government by deciding in opposition to it*, we would not hastily condemn, though it may easily be carried to a fault. It is the business of the Judge to be impartial, and to know nothing of parties ; but still we cannot think very harshly of the man, who, in guarding strongly against a bias in favor of the stronger party, incurs a little of the opposite fault : and we do most particularly desire that in all questions between the Government and its subject, the Judge should consider himself peculiarly bound to see that justice is done to the subject. There may, however, be cases in which the Judges may act the part, not of jealous administrators of the law where power is concerned, which is their duty, but of captious lawyers laying undue stress upon any defects in the evidence, and making the question turn upon some inferior point, in order to defeat the object of the Revenue Officers.

From this it appeared that the Local Government justified the establishment of this special tribunal for the decision of resumption suits, by observing that there was a tendency on the part of the Judges of the ordinary Civil Courts to manifest their independence of the Government by deciding in opposition to it. That was a sweeping condemnation of the Judges who were sworn to decide cases impartially, without reference to individuals. If those Judges were qualified to sit in judgment in cases which involved private interests, were they not, by parity of reasoning, qualified to decide resumption suits? He would not make any further comment on this matter, but leave every one to form his own judgment; happily the times were now changed, and the views of Government also.

He fully agreed with the proposer of the Bill, that the system was anomalous in cases of private individuals, but in his opinion it was anomalous also in the case of Government resumption suits. If the Judges of the ordinary Civil Courts could be trusted to decide Government claims in every other matter, surely they were capable of deciding resumption suits. And moreover as, by Act VIII of 1859, the Civil Procedure was made so simple, and so much in accordance with the opinions of modern jurists, why should they retain a law so objectionable in principle on the statute books? Let every case, whether against or on behalf of Government, or private individuals, be tried by the ordinary Civil Courts. If there were any defect in those Courts, it was a primary duty to re-model them. Let them no longer be told that those Courts were fit for trying certain cases and unfit for certain others. Let all interests and parties be equal in the eyes of the law and in the eyes of the dispensers of the law, without fear or favor. For these reasons, he proposed that the Bill be referred to a Select Committee, with special instructions to repeal Regulations II. 1819, and III. 1828, as far as they relate to the Provinces subject to the Government of Bengal, and to introduce such other alterations as might be necessary to bring all resumption suits and appeals under the jurisdiction of the ordinary Civil Courts. If he were so fortunate as to carry the Council with him in this matter, he

should have attained an object for which he had been working for the last thirty years. He was originally in the position of a junior Council in this cause, and he was happy now to have the opportunity of freely stating his sentiments before the Council, and he trusted that, even before the Honorable President vacated the office which he held with such distinction, they should cease to have one set of tribunals and judges for Government resumption suits, and another for the resumption suits of private persons, and that both descriptions of resumption proceedings would be committed to the ordinary Civil Courts.

BABOO RAMA PERSAUD ROY wished to offer a few observations on what had fallen from the Honorable Member who had last addressed the Council. The Honorable Member appeared to him to be rather hard upon the Government, and also to be not quite correct in the premises on which his argument had been founded. If he had examined more carefully Regulation II. 1819, he would have found that none of these resumption suits, whether instituted on behalf of the State or on the part of private individuals, could be brought to completion unless finally decided by the Civil Courts. It appeared to him that the object of the law of 1819 was to secure a registry of all tenures in the proper office, which was that of the Collector. As regarded the institution of suits by the Government and of suits by private individuals, there was practically no great distinction in their decision, as there was always an appeal to the Civil Court. The Collector under that law merely held the preliminary inquiries into the validity of the tenures proposed to be resumed; and what officer could be more competent for the task than the one at the head of the fiscal operations of a district? Having concluded those inquiries, the Collector was required to send over the proceedings, with his recommendation, to the Board of Revenue, which consisted of three members. The Board thereupon passed orders, either resuming or releasing the tenure; and the party dissatisfied with the decision had the option of bringing the matter, by an appeal, before the ordinary Civil Courts for final adjudication. The real difficulty in the matter arose from an enactment of 1828, which appointed Special Commissioners to form in fact a special tribunal for appeals from the judgment of the Board of Revenue. No doubt that enactment came under the strictures and observations of the Honorable Member, but the fact was that, although that law had not been repealed in so many words, it had been rendered totally inoperative in consequence of the abolition of the office of Special Commissioners created in 1828, and at present the old practice had been reverted to, and the Honorable Member, therefore, would see that it could not fairly be said that there was one procedure for the Government and another for private individuals. The present Bill, however, he understood to be merely intended to meet certain contingencies which had occurred. In consequence of the new Statute of Limitations, there had been a large number of these particular suits instituted before the commencement of the year 1862. He believed that, between the 21st December of last year and the beginning of the present year, hundreds and thousands of these suits had been instituted, and the Bill now introduced was merely intended to meet the present state of things. The Honorable Member would, no doubt, easily understand that, with such a number of suits all over the country, if the Collectors were called upon to take part in them, they would be entirely debarred from devoting any attention to their other duties. He also thought that the amendment proposed was premature. If the Honorable Member thought the time had arrived for repealing the whole of Regulation II. 1819, it was no doubt competent to him to consider the expediency of introducing a large and comprehensive measure upon the subject, but to moot the question by way of amendment on a measure introduced for a special purpose, appeared to him to be a very inconvenient course. For

these reasons he considered the amendment to be premature, and therefore should certainly oppose it.

THE ADVOCATE GENERAL entirely concurred in the observations made by the Honorable Member who spoke last, with regard to the amendment being premature. He saw many objections to the general principle of amendment such as that now proposed—not as referring to the particular amendment itself, but as bearing upon the course of business before the Council. The Bill brought in was one having for its object certain specific and limited remedies for a certain and specific inconvenience. That inconvenience was, that it had been found that a particular Section of Regulation II. 1819 would, under a state of things which had recently come into existence, be productive of lengthened litigation: and the intervention of the Legislature had become necessary in order to do away with that unnecessary amount of litigation. Upon general principles, it was objectionable that when the Council came to discuss a Bill, they being supposed to have previously made themselves acquainted with the subject of discussion by means of the annexure of the objects and statements circulated with the Bill, they should then be called upon, without notice, not merely to express an opinion as to the advisability of introducing the Bill itself which they had been asked to discuss, but to commit themselves in point of principle as to the advisability of the introduction of a Bill having a far wider scope and tendency. He therefore entirely agreed in thinking that the amendment was premature. And it would be much more desirable that any alteration in existing legislation, involving such a broad and difficult question as that raised by the amendment, should not be brought forward in the way now proposed, but that if brought forward at all, it should be embodied in a substantive motion for the introduction of a Bill for that purpose. If any other course were adopted, the Council would be placed in the strange position, that whereas it was understood that Members had previously made themselves acquainted with the nature of Bills to be discussed, they might suddenly be called upon to consider amendments involving alterations in the law of infinitely more importance, of which they had had no notice or any statement of objects. For these reasons, without expressing any opinion whatever upon the broad and difficult question proposed in the amendment, he should feel bound to oppose it.

After a few words in explanation from Baboo Prosonno Coomar Tagore, the amendment was negatived, and the Bill was read and referred to a Select Committee, consisting of Baboo Rama Persaud Roy, Mr. Young, and the Mover.

CANAL TOLLS.

MR. FERGUSSON, in moving for leave to bring in a Bill to amend Regulation XVIII. 1806 (for collecting a toll on boats passing through the Eastern Canal, which connects the River Hooghly with the Sunderbunds, and through the Canal commonly called the Banka Nullah, the Koonjopore Khaal, the Gowah Khaal, and the Narainpore Khaal), said that at present Government was empowered to collect tolls upon certain Canals, and the collection of those tolls was vested in the Salt Agent. It was proposed by the present Bill to transfer the collection of the tolls from those Salt Agents to the officers of the Department of Public Works who had the management of the canals. It was also proposed to take the opportunity of legalizing the levying of tolls on certain other canals within the tidal limits of the Bay of Bengal, which had been excavated or made navigable by the Government.

The Motion was put and agreed to.

HOUSE OF CORRECTION AND GREAT JAIL AT CALCUTTA.

MR. FERGUSSON moved that the report of the Select Committee on the Bill for the better enforcement of discipline in the House of Correction and Great Jail at Calcutta be taken into

consideration by the Council, in order to the settlement of the Clauses of the Bill ; and that the Clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

MR. MAITLAND suggested that, as the Committee had altered the Bill considerably, and made some important additions to it, it might be advisable to publish the amended Bill, and delay further proceeding until it had been for a short time before the public.

THE PRESIDENT thought it most reasonable that the Bill should, prior to being passed, go before the public, as amended. But if the Council agreed to the settlement of the Clauses to-day, it would be open to them to postpone passing the Bill, in order that it might be published for general information.

The Motion was put and agreed to.

Section I was agreed to.

Section II (empowering the Sheriff and the Officer in whom the control of the House of Correction is vested, to take cognizance of breaches of discipline and to punish prisoners for certain offences) being read—

MR. MAITLAND said that from what he knew of the subject generally, and what he had seen of the effect of solitary confinement in prisons which he had visited in the United States, he thought that solitary confinement for three days would be too severe a punishment for mere insolent language.

THE ADVOCATE GENERAL pointed out that the punishment was discretionary, and that though, no doubt, too severe for ordinary cases, it might be necessary under certain circumstances. It might perfectly well happen that in a particular case the use of insolent language might be a very grave and dangerous offence requiring to be severely dealt with.

The Section was agreed to after a verbal amendment.

Section III was agreed to after the addition of a Clause requiring the Sheriff to keep up a Register similar to that mentioned in the preceding Section.

Sections IV to VII were severally agreed to.

Sections VIII and IX were passed with amendments.

Section X provided that *the Jailor or the keeper of the House of Correction, as the case may be, shall report* to the Visiting Magistrates for the time being, the commission of any repeated offence under Section II, or of any greater offence than those punishable under that Section; and empowered such Magistrates to inflict certain severer punishments than those specified in Section II.

THE ADVOCATE GENERAL moved the omission of the words in italics and the substitution for them of the words "Sheriff or Officer for the time being having control of the House of Correction, as the case may be, may notify."

MR. YOUNG moved an amendment proposing to give to "the Sheriff or the Officer in whom the control of the House of Correction is vested," and not to Visiting Magistrates, the power of inflicting the severer punishments mentioned in the Section.

The original Motion of the Advocate-General being put

The Council divided :—

Ayes 8.	*Noes* 3.
Baboo Prosonno Coomar Tagore.	Moulvy Abdool Luteef.
Rajah Pertaub Chand Sing.	Baboo Rama Persaud Roy.
Mr. Maitland.	Mr. Young.
Mr. Bullen.	
Mr. Lushington.	
Mr. Fergusson.	
The Advocate-General.	
The President.	

So the Motion was carried, and the Section as amended was agreed to.

Section XI was passed with an amendment.

Section XII was struck out, having become unnecessary, in consequence of the Clause which had been added to Section II.

The preamble was agreed to, and the Title was passed with an amendment.

The Bill was then ordered to be published as settled in Council, and Mr. Fergusson gave notice of his intention to bring it on again on the 15th instant.

REGISTRATION OF HINDOO WILLS, &c.

BABOO PROSONNO COOMAR TAGORE gave notice that, at the next Meeting of the Council, he would move for leave to bring in a Bill for the registration and safe custody of wills, testamentary documents, and powers of adoption executed by Hindoos in the Lower Provinces of Bengal.

RECOVERY OF RENTS.

On the Motion of Mr. Lushington, the Advocate-General was added to the Select Committee upon the Bill to amend Act X of 1859.

The Council then adjourned.

Saturday, March 8, 1862.

PRESENT :

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*
A. R. Young, Esq.,
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
Baboo Rama Persaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
W. Maitland, Esq.,
W. Moran, Esq.,
A. T. T. Peterson, Esq.,
and
Baboo Prosonno Coomar Tagore.

MR. MORAN took the usual oaths, and his seat as a Member of the Council.

CANAL TOLLS.

MR. FERGUSSON, in moving that the Bill to amend the law relating to the collection of Tolls on Boats and Vessels passing through certain Canals, Khaals, and Nullahs within the tidal limits of the Bay of Bengal, be read in Council, said that at the last meeting of the Council he had mentioned the object of the Bill, and had also stated that an opportunity would be taken to ask the Council to legalize the levy of tolls upon tidal canals which might be excavated or kept navigable at the expense of the Government. The subject of inland navigation in the districts bordering upon the Bay of Bengal or within its tidal influence was one of very considerable importance. In several of those districts, owing to the nature of the country, the construction of roads was very difficult and expensive; and there was no doubt that tidal canals, which would prove of the greatest utility, might be excavated and kept navigable at all seasons of the year. Colonel Beadle, Secretary to the Government of Bengal in the Department of Public Works, had devoted much attention to the subject when employed in those districts, and in a report which he had submitted to the Government in 1859, he made several very valuable suggestions. Among other things he said—

"I have addressed the Commissioners of the Burdwan Districts and of Orissa on the subject of this proposed water route, which would find great favor in the eyes of the people, and bring in, I believe, a remunerative revenue, which the Midnapore road, 50 miles long, never will do. The cost of keeping the canals open would not exceed the cost of maintaining a complete metalled road in order, and the first expense would not be greater than that of completing the Balasore and Midnapore road. My own belief is that the natural route for Orissa produce is through Hidgellee and by tidal canals. In 1839-40 the Military Board reported that the clearance of the Ooloobarriah canals costs about Rupees 1,321, and that the tolls levied on boats using the canals have averaged Rupees 2,092 for the last two years. I append a statement of the tolls received on the Banka canal (between Huldee and Roopnarain) during two distinct periods of ten years each. To sum up my proposals I would recommend that a water route from the Soobunreeka through Hidgellee and the Salt Aurungs be opened out to the Hooghly River between Ooloobarriah and Fulta to be extended afterwards from the Soobunreeka to Balasore on the Burra Bolong River, and that the road from Balasore to Cuttack be completed with exception to bridging the great rivers.

"Further, that the Culna and Ooloobarriah canals be made navigable, and a water route be thus provided from Ghuttal to the Presidency as well as a canal for the coal boats passing from the Damoodur into the Hooghly. It is not only the produce of Orissa that will be

placed in communication with the Presidency by these water routes, but the River Soobunreeka, at present little known, will be brought under notice. I have, perhaps, exalted ideas about this river, but it is certain that timbers, fire-wood, charcoal, and gooting limestone will be supplied to the Presidency from its banks directly the Hidgellee inland water routes are opened.

"The lands yield a fair profit to gold-washers. A Calcutta Company has for some years been working at copper mines in its vicinity. Ochreous clays taken from its banks are sold to pilgrims on the Juggernath road, and, if I mistake not, good fire-bricks can be made from them. The river's course lies through an uncivilized country that will profit much by the enterprise of traders; its water is delicious, and the Preventive Salt Officer's bungalow at Jellasore is noted for the salubrity of its situation on the immediate bank of this beautiful river."

The Lieutenant-Governor, he believed, was anxious to promote the extension of useful tidal canals and of inland navigation, and he understood that several were at present in contemplation. There was no doubt, however, that the expense would be considerable, and it seemed to be quite just and proper that the people who were to use the canals and benefit by them should be called upon to pay moderate tolls in order to reimburse the Government for their outlay, and to provide funds to keep the channels navigable, for they were very liable to silt up if not looked after and kept cleared. The general principle that those who used and benefited by the canals should pay towards keeping them up, had been recognized by Act XXII of 1856, and he thought there could be no doubt as to the justice and correctness of that principle. He did not think it necessary to dwell much upon the Clauses of the Bill. They provided for the enforcement of payment of the tolls when necessary, and also for the punishment of persons who attempted to evade the tolls or to resist any seizure in consequence of non-payment. Upon that point the Bill only extended rules which the experience of twenty years had proved to be beneficial. He begged to move that the Bill be read in Council.

BABOO PROSONNO COOMAR TAGORE begged leave to support the Bill, chiefly on the ground that the canals, khaals, and nullahs mentioned in it were generally narrow and required excavation almost every dry season; and that work could not properly be superintended by the Salt Agents of Tumlook and Hidgellee. It would be far better to place these canals, as proposed, under the immediate control of the Public Works Department for the purpose of securing efficient performance of the duties.

But there was one point which he wished to bring to the notice of the Council, which was that these canals often, in the dry season, or in some places at ebb-tide, became dried up and unnavigable, to the great injury of the trade and commerce of the country. The people might very properly be taxed with the tolls for keeping those canals navigable all the year round: but where such convenience might, from a general cause, be withheld, he did not see any justifiable ground for levying the toll. In rainy seasons, the country being flat and adjacent to, or within, the tidal limits of the Bay of Bengal, the influx of water into the canal was the effect of a natural cause, without any human assistance. If the canal were not kept navigable all the year round and at all times, it was not perfectly fair to levy tolls for the passing and re-passing of boats during the rainy season, or at high water, when nature opened the passage for the accommodation of man. There ought to be some restriction to the effect that the levy of the tolls should be continued only so long as the passage for boats in the canals was kept navigable. He merely threw out these hints for the consideration of His Honor the President of the Council and the Committee who would have the revision of the Bill.

MR. YOUNG wished to take the opportunity of drawing the attention of the Council to what he considered erroneous in the principle upon which the Schedule was drawn up. He observed that there were distinct rates for boats carrying salt, for baggage boats, and boats laden with rice, paddy, and grain, and for budgerows, pinnaces, and paunsways. Now, he

could see no connection between the requirements of the boat, so far as canal accommodation was concerned and the contents of the boat. To regulate the toll, therefore, according to the cargo in the boat appeared to him a mistake. He observed further, that the toll upon salt was heavier than upon any thing else, and that must have been fixed on the impression that salt could bear a high rate of toll. Now that was entirely an error, for at present, after the necessary expenses of manufacture, Government salt was unable to compete with imported salt. He thought, therefore, that it was desirable for the Committee to revise the Schedule and fix some uniform rate.

THE ADVOCATE-GENERAL thought that the attention of the Select Committee should be drawn to the fact that the Bill did not contain any provision for the application of tolls. The collection of these tolls might, and, he hoped, would, give a surplus, and it would be very desirable to insert some provision in the Bill for the application of the tolls actually collected, in the first place for keeping open river navigation, and in the second place, if any surplus might arise, for the further extension of the general inland navigation of the province.

MR. PETERSON cordially concurred in supporting the principle of the Bill, and he also concurred in what had fallen from the Honorable Member, who spoke last. If the Government took upon itself to open up the navigation of these canals, any profit which might arise from the levying of tolls ought not to become sources of imperial revenue, but ought to go either in diminution of the tolls themselves, or in furtherance of other canals. There was one point which required attention, and that was that at present a great deal of indirect exaction was carried on wherever tolls had to be levied. Since Mr. Galiffe had been appointed to his present position, he had done every thing in his power to check the evil, and had greatly improved the state of things on the canals under his charge. But in point of fact with the present machinery it was impossible to prevent the mischief. There were some other questions which, he thought, might be referred with advantage to some practical engineer with a view to the adoption of some principle of measurement which might in some degree prevent extortion. In America, in the Erie canal, the boat tax was not an *ad valorem* duty upon the cargo, but it was calculated according to the displacement of the water. They had locks of known capacity, and these were filled to the brim, and then the gates were closed, and the displacement of water was at once seen. He could speak from his own knowledge of the inconvenience attending the payment of tolls in this country. He did not wish to find fault unnecessarily; but being connected with a large company which was in the habit of conveying large quantities of produce through the canals, he knew that there was a great deal of trouble and inconvenience with regard to the tolls, unless there was something paid in the shape of bribery. At present that could not be avoided, and the existing machinery was insufficient to check it; and he thought the subject was well worthy the attention of the Committee. It might also be worthy of consideration whether it would not be advisable to institute two classes of tolls: namely, the ordinary passing tolls and yearly licenses. At present the manjees were very different to what they were a few years ago. They had increased considerably in wealth; and he had no doubt that many of them would be glad to come forward and take an annual license for the navigation of canals. He quite agreed with the principle that the costs of keeping up these canals should come out of the pocket of those who derived benefit from them. At present many of these kh the were navigable for only one hour o ong tide, while at a slight expense to dg- might be made navigable for the w tide. He had not the slightest diah that this was a first step in a move e be which must conduce extensively to ncy future welfare of India. It w ing is open up great facilities for the tra e port of timber and of another comm

Mr. Young

dity for which there was a great necessity, namely, lime, which could be procured of the finest quality in the world in the districts which would be affected by the measure. He was very glad, therefore, to have it in his power to give a cordial vote in favor of the Bill.

MOULVY ABDOOL LUTEEF expressed his concurrence with the principle of the Bill, but thought, the schedule of fees needed revision.

The Bill was then read and referred to a Select Committee consisting of Mr. Peterson, Baboo Prosonno Coomar Tagore, and the Mover.

REGISTRATION OF HINDOO WILLS, &c.

BABOO PROSONNO COOMAR TAGORE said that he had given notice last Saturday that he would to-day move for leave to bring in a Bill for the registration and safe custody of Wills, Testamentary Documents, and Powers of Adoption executed by Hindoos in the Lower Provinces of Bengal; and he now begged leave to submit the Bill for the sanction of the Council. The Statement of Objects and Reasons, annexed to the Bill, sufficiently explained his motives and the necessity for such a measure. The peculiar state of Hindoo society in Bengal was so well known to the Members of the Council, that he need not offer any explanation regarding it. Suffice it to say that it induced a more than ordinary desire among Hindoos to preserve secrecy regarding their arrangements as to the succession to their estates after their decease. When a proprietor of extensive estates wished to leave them undivided, and bequeathed them to that one among also sons whom he considered fittest to attend to his name, he was naturally any a[illegible]s that his intentions should not ment[illegible]prematurely divulged. Even in exte[illegible]ry cases, where a proprietor twen[illegible]his estates to be inherited by He b[illegible] sons, in equal or unequal proread[illegible]ns, it might be necessary to B[illegible] several minor arrangements, TA[illegible] to give bequests to his con- Bill[illegible]ons and dependents, the premature disclosure of which was likely to create unpleasant feelings in the bosoms of expectants. In his anxiety to prevent such consequences, he perhaps deferred making his will till it was too late. His intentions were thus wholly frustrated, and parties probably took advantage of his silence to produce fictitious wills in their own favor or that of their own children. The state of things with regard to adoptions was still more productive of mischief. It was an article of the Hindoo faith that he who had no sons must adopt one according to certain prescribed forms. It was not competent to him to leave his estates to his next of kin, as that person might not be in a situation to be adopted. In this case, too, a man deferred taking any steps to provide for the adoption of a son, and was at last obliged to delegate the task to one or other of his wives, by a deed termed Unoomuttee Puttro, which he had rendered "Power of Adoption." There was here a peculiar motive for secrecy. A man who had two wives did not wish to announce beforehand to which of them he would give the power of adoption, as the effect of the knowledge of his preference might be easily conceived. It had come to his knowledge, in the course of his practice as a pleader, that a man of rank happened to leave nine widows at his death, and each of them produced an Unoomuttee Puttro in her own favor. All the nine documents so produced were forgeries; but, of course, the widow, whose deed was forged with the greatest skill, gained the day. It often happened, on account of the lamentable custom of early marriages, that a young man, whose wife was yet an infant in the eyes of the law, met with an untimely death. All that it was possible for him to do was to leave a power of adoption to his wife, to be acted upon after she came of age. In such a case she was marked as a prey by the designing relatives of her husband or father, and they easily made her a tool for their own purposes, leading to the reality of the power of adoption being challenged by other interested parties. These circumstances

had long impressed him with a conviction of the necessity of requiring all wills and Unoomuttee Puttros to be registered, and to be registered so as to avoid divulging the contents thereof. If no provisions were made, such as to satisfy parties that their testamentary dispositions and intentions regarding adoptions would be kept strictly secret during their lifetime, any rules that might be established would prove utterly useless. Hence, the peculiar rules for the registration, not of the *contents* of the wills and powers of adoption, but merely of the *fact* of such deeds having been actually executed by the deceased. But as the registration of the fact would admit of the suppression of the deeds actually executed, and the production of spurious ones, he would provide that the originals of the deeds should not remain in the hands of the parties, liable to be made away with or tampered with after their decease, but in the custody of a public officer, by whom the deeds would be opened, with due formalities on the death of the makers becoming known These measures would, he believed, preclude those forgeries and attempts at forgery which were now so common,—a circumstance which, even in the case of genuine deeds, never failed now-a-days to produce numerous lawsuits. Such was the prevalence of forgery in these respects that no deed was admitted by the heirs presumptive of the deceased, until it had been subjected to the test of judicial inquiry—a process not only tedious, when the laws admitted regular and special appeals, and appeals to the Privy Council, but highly expensive as well as demoralising. What he had said sufficiently demonstrated the necessity of some measures of the kind. What was very surprising was that hitherto no means had been provided for checking evils which were at once so prevalent and so pernicious. In every civilized country the laws required wills to be proved, and the executors to file accounts showing the faithful discharge of their duties. The reasons of those laws were almost the same as those which he had alluded to—namely, the desire of testators not to divulge the dispositions they intended to make, and the facility which *that* desire afforded to designing persons to fabricate wills. Witnesses were usually required in those countries to attest wills without knowing their contents; and in many cases wills were deposited with confidential attorneys who sometimes, however, betrayed that confidence. The present Bill made the Register a witness of wills and powers of adoption, without letting him into the contents of them, and made him the custodian of them in sealed envelopes,—a trust which his official situation must prevent him, except in very rare cases, from betraying. He begged to move for leave to bring in the Bill.

The Motion was put and agreed to.

REGISTERS OF DEEDS.

MR. FERGUSSON, in moving for leave to bring in a Bill to amend the law relating to the appointment of Registers of Deeds, said that at present as a rule there was one Registry Office in every District. One object of the Bill was to extend the present system so as to provide more Registry Offices for the convenience of the public. It was further proposed to fund the fees leviable for registration, and to pay the Registers fixed salaries, as also the persons employed in their Offices. It was also proposed to legalize certain offices which already existed, but as to the legality of which there was some doubt.

The Motion was put and agreed to.

NATIVE PASSENGER BOATS.

MR FERGUSSON gave notice that at the next Meeting he would move for leave to bring in a Bill to provide for the registration and supervision of Native Passenger Boats in certain Districts of Bengal.

The Council then adjourned.

Baboo Prosonno Coomar Tagore.

Saturday, March 15, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*
A. R. Young, Esq.,
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
Baboo Rama Persaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
J. N Bullen, Esq.,
W. Maitland, Esq.,
W. Morau, Esq.,
A. T. T. Peterson, Esq.,
Rajah Pertaub Chand Sing,
and
Baboo Prosonno Coomar Tagore.

GREAT JAIL AT CALCUTTA.

MR. FERGUSSON brought forward the Bill for the better enforcement of discipline in the Great Jail at Calcutta, and moved that it be passed.

Upon the suggestion of the President, a few verbal amendments were made in the Bill. The Motion was then agreed to, and the Bill passed.

REGISTRATION OF HINDOO WILLS, &c.

BABOO PROSONNO COOMAR TAGORE moved that the Bill for the registration and safe custody of Wills, Testamentary Documents, and Powers of Adoption, executed by Hindoos in the Lower Provinces of Bengal, be read in Council.

MR. MAITLAND said that although the measure was one which more particularly affected the native inhabitants of Bengal, he desired to express his thanks to the Honorable Member who introduced it, for it most certainly was a step in the right direction. There were, however, some matters of detail which would require alteration. According to the Bill as it at present stood, all existing wills "might" be registered, whereas all wills subsequently made "must" be registered; and that provision appeared to him to involve an inconsistency. The 5th Section of the Bill provided that—

"No such document, once registered and deposited, can be withdrawn from custody by the depositor, but may be cancelled or modified by a document subsequently executed and registered and deposited under the provisions of this Act."

Now that appeared to him an unnecessary provision. A person might make a will under the influence of particular feelings which might pass away, and he might then wish not only to withdraw such will, but to conceal the fact that he had ever made it. People before now had at one time disinherited their own offspring and had afterwards not only withdrawn the will to that effect, but had been most desirous to have the fact of their having made such a will kept a profound secret. If a man changed his mind on a point of that kind, his very first wish naturally would be to prevent its being known that he had ever made the will. The easiest plan in such a case was to destroy the will; but under the present Bill that would be impossible. In Section VII a provision should be made for the charge of some small fee (as was charged in England) to those who wished to inspect, or to have an extract of a will. While cordially approving of the principle of the Bill, he thought that some of its provisions would require careful consideration.

MR. FERGUSSON observed that the Bill was made to apply solely to deeds executed by Hindoos. Now he objected to class legislation. If the Bill conferred advantages, he could not understand upon what principle a large portion of the community should be excluded from their enjoyment. In practice, however, he did not believe that the Bill could work. The essence of the scheme appeared to be that certain documents should be forwarded to an officer designated as "Principal Register," and should be kept in the "Principal Registry Office." But no such officer and no such office existed in Bengal, and there was no provision made in the Bill by which such an officer could be appointed. The project appeared to him to be part of the general scheme for Registration of assurances, which had been before the late Legislative Council, and was now under consideration of the Council of

His Excellency the Governor-General of India. The Mover's main object was excellent; and certainly it was very advisable to provide for the safe custody of wills executed by all classes. But he thought the Bill ought to be very materially altered before being read in Council.

BABOO RAMAPERSAUD ROY doubted if the proposal of the Honorable gentleman would be sufficient to carry out the object which he had in view. He also entertained some doubt as to whether the Council could legislate in the matter, for there was another Bill containing provisions almost, if not precisely, the same, pending before the Council of the Governor-General. He had had the honor of being consulted in the case of a similar Bill brought before the late Legislative Council, as also in the case of the Bill at present before the Council of the Governor-General.

The latter measure appeared to him to contain all that the Honorable Member proposed to enact by the present Bill. The principle of the Bill was one which he cordially approved of, but he considered that great difficulty arose from the fact of its clashing with the Bill before the Council of the Governor-General, to which he had already referred. The principle of registration was by no means a new one, as the law of 1793 provided for the registration of Wills and Deeds of permission to adopt. But from various social and other causes it had unfortunately not been properly or sufficiently taken advantage of. Of these causes he would mention two. The first was the natural indisposition of every member of the community, whether European or Native, Hindoo or Mahomedan, to declare beforehand how he proposed devising his property after death; and he did not think that the law of 1793 afforded sufficient security for privacy in that respect. The other cause was still more of a social character. It was to be remembered that among the higher classes of natives, a practice prevailed of executing wills at the very last moment only; and, indeed, so much was this the case, that an idea prevailed that the fact of making a will betokened the speedy approach of death. Indeed, it was always a most ungracious task for those, who attended at the death-beds of the sick, to suggest the necessity of making testamentary dispositions of their property. He was not prepared to deny the inconvenience of the present system, nor would he trespass upon the time of the Council to enter at length into matters of detail which had fallen under his own experience; but he must point out that over and over again, and in cases of recent occurrence, it had been shown that the present system of registration was very defective, and opened a wide door for litigation. He would mention one case, in which the deed of permission to adopt was dated some years before 1800, the adoption took place about 1830, and the deed was only set aside by the Sudder Court in September last. In another case, a deed of permission to adopt, dated in 1809, was confirmed by the Sudder Court in 1860. He could not concur in the proposal in the Bill, that it should only apply to Hindoos. There was no reason why Mahomedans should be excluded from its advantages, as, by the Mahomedan Law, Mahomedans had testamentary power over one-third of their property. He objected also to the limitation of forty-eight hours after the testator's death, during which, in the case of wills executed on death-beds, it was proposed to make registration compulsory. It was well known that females, in Hindoo and Mahomedan families, scarcely recovered from the first paroxysm of grief within forty-eight hours after the death of the principal members of their families. Interested parties would be able very easily to suppress wills for forty-eight hours, so as to render them useless to those who might otherwise be largely benefited by them. He objected, too, to the Section of the Bill which referred to the administration of estates, as wholly out of place in a Bill for the registration and safe custody of Wills and Deeds of permission to adopt. Acts XIX of 1841, XL of 1858,

Mr. Fergusson

and XXVII of 1860 contained ample provisions for the administration of states under different circumstances. would be incongruous to intro- e into this Bill any provisions h properly appertained to the laws mentioned. He also objected to ovision in the Bill regarding stration of the fact of adoption. not see how the performance monies, which really consti- *factum* of adoption, could be For all practical purposes, sufficient, as was now done, the fact of adoption by peti- the civil authorities of the dis- The provision for fining parties who neglected to register the fact of adoption was unjust and unnecessary. The object the Honorable Member had in view was no doubt, a very useful one, but the Bill itself required a careful consideration of its details.

He then went at length through certain parts of the Bill, stating various objections which occurred to him, and concluded his observations by again asking the Council to consider whether it was expedient to undertake legislation when the same principle as that included in the present Bill was under the consideration of the Council of the Governor-General.

THE PRESIDENT said that, on the question of order raised by the Honorable gentleman, he had no doubt as to the competency of the Council to entertain the Bill. It applied to a subject which was not one of those exclusively reserved for the consideration of the Council of the Governor-General. After due consideration and study of the Statute 24 and 25, Vic., c. 67, it was his opinion that ordinarily, and as a general rule, those subjects not reserved by the Statute itself for the exclusive consideration of the Council of the Governor-General, were intended to be dealt with by the local Councils. The fact was not officially before the Council, but he had personal knowledge of the matter, and it was generally known, as it had appeared in the Gazette, that a Bill on the subject of registration had been brought forward in the Council of His Excellency the Governor-General. But he could not, on that ground only, recommend this Council to forego its right to entertain this Bill. It appeared to him that, as a general rule, it was best that the several local Councils should legislate upon all matters not specially reserved for the exclusive consideration of the Council of the Governor-General. The Bill now before the Council was in truth one relating more to the deposit and safe custody of wills than to their registration. But even supposing that a similar Bill were introduced into the Council of the Governor-General and passed, it did not necessarily follow that that Bill would be applicable to the Lower Provinces of Bengal. It was not improbable that those Provinces which had local Legislatures of their own might be excluded from its operation. Such a course had been determined upon in the case of another measure, which, by an accident, had been simultaneously introduced in both Councils. On the point of order, then, he was of opinion that there was no reason why the Council, if they approved of the Bill upon its merits, should not entertain it.

MR. PETERSON would not go into any question as to the particular Clauses of the Bill, but would confine himself to the principles which it involved generally. Before considering the question of registering wills, it might be as well to settle what a will among Hindoos really was, and what was necessary to ensure its validity. That question had not as yet been finally decided, at least so far as regarded the circumstances of execution. As the law at present stood, a nuncupative, or unwritten, will was as good as a written one. It was premature to bring in such a Bill as this, when the law remained in such a state that no writing whatever was essential to the validity of a will made by a Hindoo. He looked upon the present Bill as something like an attempt to build a house, commencing with the garret before any foundation was

at all. Without in any way pointing out under what formalities wills were to be executed, the Bill attempted to make the non-registration in lifetime, of a document purporting to be a will, a bar to the proof of any will whatever, unless the document were executed on the death-bed and registered within forty-eight hours of death. It indirectly took away the power of making a Hindoo will by word of mouth. This Bill might be very desirable as affording a means of safe custody for such documents: but it did not stop there, but indirectly made some writing necessary without pointing out what. Upon this and other points the Bill was open to objection, and he should certainly oppose its being read.

THE ADVOCATE GENERAL thought that the objections to the Bill were so numerous that they could not be got rid of by any reference with instructions to a Select Committee, and therefore the only course open to him was to oppose the motion by a direct negative.

After a few words in explanation from Baboo Prosonno Coomar Tagore, the Council divided as follows:—

Ayes 5.	*Noes* 8.
Baboo Prosonno Coomar Tagore.	Rajah Pertaub Chand Sing.
Mr. Maitland.	Mr. Peterson.
Moulvy Abdool Luteef.	Mr. Moran.
Baboo Rama Persaud Roy.	Mr. Bullen.
The President.	Mr. Lushington.
	Mr. Fergusson.
	Mr. Young.
	The Advocate-General.

So the Motion was negatived.

REGISTERS OF DEEDS.

MR. FERGUSSON moved that the Bill to amend the law relating to the appointment of Registers of Deeds, and for the establishment of Deputy Register Offices, be read in Council. He stated that he had already mentioned the objects of this measure, which were to extend the system of registration at present in force: to provide more Registry Offices for the convenience of the public; to ensure regular payment of all persons employed in those offices; and to legalise the registration of deeds actually registered at certain Sub-Divisional Offices, regarding the legality of which doubts existed which ought to be removed. He did not think that any question could exist as to the beneficial tendency of the Bill, although he felt bound to admit that it was not all that he could wish it to be. It did not profess to establish a full and complete system of registration, but it was a step towards such a system, and it was better to take a step in the right direction than to stand still, and do nothing.

The motion was agreed to, and the following gentlemen were nominated for the Select Committee: The Advocate-General, Baboo Ramapersaud Roy, and the Mover.

NATIVE PASSENGER BOATS.

MR. FERGUSSON moved for leave to bring in a Bill to provide for the Registration of Native Passenger Boats in certain parts of Bengal. The Police, except in Calcutta itself, had generally no power to regulate and control these boats, and the result was, in many cases, great over-crowding attended with loss of life. The remedy he proposed was to empower the Government to extend the provisions contained in Section 23 of Act XLVIII of 1860, which gave the Calcutta Police a certain control over boats in that port, and which had been found to work in the most satisfactory manner.

The Motion was put and agreed to.

CALCUTTA COURT OF SMALL CAUSES.

MR. FERGUSSON moved for leave to bring in a Bill to extend the jurisdiction of the Calcutta Court of Small Causes, and to enable the Government to appoint Assistant Judges of that Court. The Court of Small Causes had given very general satisfaction, and he believed that the jurisdiction might advantageously be extended in the manner which he proposed,

namely, to sums not exceeding 1,000 Rupees. He also proposed to give a larger jurisdiction in cases where the parties to any suit agreed in writing to abide by the decision of the Court. Such an extension of jurisdiction would considerably increase the duties which devolved upon the Judges of the Small Cause Court, whose present duties were extremely onerous. A large number of suits were for very small sums of money, and required no great knowledge of law to decide them, and he proposed that one or more Assistant Judges should be appointed, whose jurisdiction, when they sat alone, should be limited to 50 Rupees.

MR. BULLEN approved of the principle of the Bill, but entertained some doubts as to whether the jurisdiction of Small Cause Courts should be rendered compulsory up to the amount of 1,000 Rupees.

MR. MAITLAND also approved of the principle of the Bill. So far as he had been able to ascertain the opinions of Mercantile men, they appeared to be generally in favor of the jurisdiction being extended to 1,000 Rupees, and of such jurisdiction being made compulsory.

MR. PETERSON was not sure that it was in order to discuss a measure upon the motion for leave to introduce a Bill. He thought that, before discussing the details of the Bill, it would be well if the Council were to wait till they saw it. The sole question at present was, whether the Council thought that there was a *primâ facie* case for the introduction of such a measure.

THE PRESIDENT said that it was quite competent for any Honorable Member to speak upon a Motion for leave to introduce a Bill, and even to oppose the Motion if he thought fit. Probably Honorable Members would not object to such a Motion unless they opposed the principle of the proposed Bill so strongly, that they felt that they could not agree to it, however the Bill might be framed.

The Motion was put and agreed to.

The Council then adjourned.

Saturday, March 22, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*
H. D. H. Fergusson, Esq.,
E. H. Lushington Esq.,
Baboo Rama Persaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
W. Moran, Esq.,
Raja Pertaub Chand Sing,
and
Baboo Prosonno Coomar Tagore.

NATIVE PASSENGER BOATS.

MR. FERGUSSON moved that the Bill for the registration and supervision of Native Passenger Boats in certain parts of Bengal be read in Council. Under the 282nd Section of the Penal Code, the conveying of any person by water for hire in a boat overloaded and unsafe, was an offence punishable with fine and imprisonment. But the law did not empower the Police generally to interfere in order to regulate Native Passenger Boats, as they could do in Calcutta under Section 23 Act XLVIII of 1860. That Section applied only to "boats which ply for passengers in the port of Calcutta;" and consequently, it had happened that boats which plied from places in the immediate vicinity of Calcutta continued to be over-crowded, causing frequent accidents and serious loss of life. To remedy this, it was proposed to empower the Government to extend to places beyond Calcutta rules similar to those contained in the Act to which he had referred. It was not considered expedient to extend those rules generally to every place in Bengal; for in many places there might not be the machinery necessary for working such rules; as, for instance, there might not be a Magistrate, or a Police Office in the immediate neighbourhood. The Government could best judge of this, and extend the rules to the places where they could be enforced without extreme inconvenience to the people.

MOULVY ABDOOL LUTEEF would support the principle of the Bill, but in doing so must remark that if the

law were extended to the whole country much evil would be produced. He had before now expressed his opinion,—and he believed Honorable Members who had any experience of the country would bear him out,—that with the defective machinery for working them, which at present existed, all laws in which the Police must needs interfere, even the best laws, were liable to be abused and rendered a source of infinite annoyance to the people. The powers of the Police were already too great, and it was inexpedint to add to them. The Bill, if passed in its present shape, would subject manjees and passengers to great annoyance and extortion on the part of the Police: false charges would be made of overcrowding or plying without license, in places away from the seat of a Magistrate from whom redress could be obtained,—while overcrowding would continue as ever on the payment of fees to the Police. He therefore trusted the Select Committee would see fit to limit the operation of the law to towns and stations where the presence of the Magistrate might be a check upon the Police.

BABOO PROSONNO COOMAR TAGORE thought the object of the Bill most desirable for the safety of passengers. As the present state of the country did not allow its provisions to be made general, the Bill very judiciously left it to the discretion of the Lieutenant-Governor to extend them to any district, port, or place where they might be useful. But it was necessary that some improvements should be made in the Bill; and he threw out the following hints for the consideration of the Committee appointed to report upon it. When the Lieutenant-Governor declared any district, port, or place to be subject to this Act, such declaration should have due publication by proclamation, or otherwise; for the people ought to know the liability of the passenger boats The 2nd Section of the Bill, which provided for the registration of the boats, should contain a provision that the Magistrate should, in every case, before granting the registry ticket, cause the boat to be examined, and if he found that it was not in a fit state for the safe use of passengers, he should decline to grant the ticket; and when otherwise, he should state the fact in the ticket. It was known by experience that passenger boats were often old, rotten, and unfit for use. And such boats should not be suffered to ply to the danger of the lives of the passengers. The manjees should be required to report every accident to the Police authorities, in order that due enquiry as to its cause might be held. And if the accident had occurred from the unfitness of the boat, or neglect of the manjee, and had caused loss of life, the manjee of such boat should be committed to take his trial for manslaughter,—as a manjee was lately committed by the Commissioner of the Calcutta Police. A few such commitments would produce a salutary effect. Judging from the number of boats registered in Calcutta, the fees for registration in the Mofussil would amount to a considerable sum: and there was nothing in the Bill to show how that fund was to be dealt with, after payment of expenses incurred in making registrations. With these observations he begged to support the Bill.

The Motion was then agreed to, and the Bill referred to a Select Committee, consisting of Babooo Rama Persâud Roy, Moulvy Abdool Luteef, and Mr. Fergusson.

CALCUTTA COURT OF SMALL CAUSES.

MR. FERGUSSON moved that the Bill to extend the jurisdiction of the Calcutta Court of Small Causes, and to provide for the appointment of Assistant Judges of that Court, be read in Council. When moving for leave to bring in the Bill, he had mentioned that it was believed that the jurisdiction of the Court might advantageously be enlarged. That opinion had since been confirmed by every person consulted by him on the subject, and it was also the opinion of the Calcutta Trades' Association, who, in a memo-

Moulvy Abdool Luteef.

rial to Government, used the following words:—

"Your Memorialists would pray that the amount cognizable by the Court of Small Causes may be extended to 1,000 Rupees; and your Memorialists beg to submit that if the limits of the amount cognizable by the Court be extended, it will prevent the heavy law charges now attending the recovery of sums of that amount in the Supreme Court, which charges have always to be borne by the debtor who, in many instances, has scarcely the means of liquidating the amount of claim, much less the heavy law charges incurred; and your Memorialists further observe that the trade of Calcutta has increased so much that many of the debts owing to tradesmen range from 500 Rupees upwards, and that the creditor is debarred from recovering the amount by a cheap and attainable process, and is compelled to have recourse to the expensive and tedious process of the Supreme Court, the cost of which is so excessive in proportion to the amount claimed that many creditors are deterred from seeking redress through its instrumentality."

At present it was the case that parties having claims for more than 500 Rupees, frequently availed themselves of the privilege given them by Act IX of 1850; and abandoning the excess above 500 Rupees, instituted their suits in the Small Cause Court for that sum only. All this seemed to show clearly enough that the jurisdiction of the Court might be extended with advantage to the public; the more especially as, under the rules of the Court, the First Judge, who was always a lawyer by profession, must himself try those classes of cases in which legal points of difficulty were most likely to arise; and whenever a point of legal difficulty arose unexpectedly in a case heard before the unprofessional Judges, they were bound to consult with the First Judge before deciding the case. It was further proposed to give the Court jurisdiction in suits of larger amount than 1,000 Rupees, when the parties had agreed in writing to abide by the Court's decision. This was similar to the jurisdiction of the English County Courts, the Judges of which might try suits of unlimited amount if the parties consented; and in principle, certainly, there was no objection to permit parties to sue and be sued in a cheaper Court, if they mutually agreed that recourse should be had to that Court, and to it alone. But this enlarged jurisdiction could not fail to increase the duties of the Judges of the Small Cause Court, which already were extremely onerous, as was abundantly evident from the fact that the three Judges in every year disposed of about 30,000 causes. In order, therefore, to relieve the Judges, and allow them sufficient time to investigate every case, it was proposed to empower the Government to appoint Assistant Judges to hear suits for sums not exceeding 50 Rupees, of which there were upwards of 26,000 instituted every year. As a rule these petty cases involved only the simplest questions of law, and they might safely be entrusted to a lower class of Judges, to be called Assistant Judges. Under another Section of the Act it was proposed that the First Judge appointed under Act IX of 1850 should arrange the distribution of the business among the other Judges. What he proposed to enact, in point of fact, scarcely differed from the mode in which the business was at present conducted under the orders of the Government; but it had been thought advisable to include the subject in the present Bill in order to define legally the duties of the First Judge. He believed that the Bill would tend to render the Court more generally useful, and accordingly moved that it be read in Council.

MR. BULLEN thought that the extension of the power of the Small Cause Court would be beneficial, but he entertained some doubt whether its compulsory jurisdiction ought to be extended to 1,000 Rupees. As the Court was at present constituted, he believed that it had no power to issue commissions to take the evidence of persons who were at a distance, or of sick persons, or of Native females of rank, and he believed the Court could not examine witnesses *de bene esse*, or even in all cases compel the attendance of witnesses. He did not find in the present Bill any provision conferring upon it those powers. Now, it must be evident that many cases

must arise in which if such powers could not be exercised, great injury might be done to either the plaintiff or the defendant, and unless such powers were conferred upon the Court he did not think it desirable to extend its compulsory jurisdiction beyond 500 Rupees. As regarded the appointment of Assistant Judges, he considered it to be quite a proper measure, and one likely to be attended with the most beneficial results.

Mr. MAITLAND perfectly agreed with the Honorable Member with regard to what had fallen from him in reference to the powers of the Court. Those powers, however, could be very easily conferred, and if they were, he could see no objection to the proposed extension of the jurisdiction. He believed that such extension would be productive of great advantage, and that it was the general opinion of the public that it would be so, and therefore he should support the Bill.

The ADVOCATE-GENERAL would also give his support to the measure. He must confess it appeared to him that the most valuable amendment of the present state of the law which was contemplated by the Bill was not so much the extension of the jurisdiction of the Court of Small Causes to 1,000 Rupees as the introduction of additional judicial aid into the Court, which would have the effect of relieving the principal Judges and prevent their having their time frittered away, or at any rate taken up in the disposal of a mass of small and unimportant cases Such cases usually involved no question of law, indeed many involved no dispute as to facts, and could be satisfactorily disposed of without the employment of judicial strength, which might more usefully be engaged in the decision of questions involving disputed facts or doubtful points of law. Upon the understanding that the time of the principal Judges of the Court would, under the arrangement proposed by the Bill, be more free for a full and fair investigation in cases of dispute and difficulty, he saw no objection to that extension of the jurisdiction of the Court in the way proposed. But at the same time, he was bound to confess that if the proposal for the extension had not been accompanied by a proposal for the addition of judicial force, he should have been very much opposed to the extension. He might say that from inquiries he had made, from conversations he had held, and, indeed, from his own knowledge of such matters, he hardly anticipated any great increase to the business of the Small Cause Court in consequence of the extension of the jurisdiction. But be that as it might, it was certain that cases which were now dealt with as undefended cases by the Supreme Court would be disposed of in a speedier and cheaper manner. Whether or not the extension of the jurisdiction would increase the business was, of course, at present a matter of speculation, but whichever way it turned out, he highly approved of the proposed introduction of Assistant Judges to relieve the principal Judges from a great mass of small and unimportant cases. He also highly approved of another alteration in the law at present proposed, rendering the procedure and constitution of the Small Cause Court more conformable with the County Courts in England. The present Bill proposed giving a right of appeal, not at the discretion of the Judge, but at the demand of either party to the suit, and the necessity of such right of appeal became more apparent as the jurisdiction became more extended. He would not go so far as to say that the difficulty involved in the decision of cases was in proportion to the magnitude of the sum in issue, but at all events where a large sum was involved there was more chance of a dispute of law or of fact arising. He also highly approved of the principle which limited the right of appeal to questions of law and* of evidence.

Baboo RAMA PERSAUD ROY said that one Honorable Member who had spoken had said that he highly approved of the principle of the Bill, but he doubted the propriety of giving a compulsory jurisdiction up to the extent of 1,000 Rupees without pro-

*Mr. Bullen.

vision for an appeal or reference to a higher Court. Now he found that by Section III of the Bill power was given to parties to ask for a reference to the Supreme Court, and such reference was not at the discretion of the Judge, as is now the case in the Calcutta and Mofussil Small Cause Courts, but on demand of the parties: therefore he would not say anything on the observations of the Honorable Member. With regard to the appointment of Assistant Judges, that he regarded as a most important provision: for his own experience had shown him that the efficiency of the Court had been largely impeded in consequence of the want of such Judges. By looking at the annexure to the Bill, he found that the average annual number of suits instituted in the Small Cause Court had been 30,000. If they took away 100 days from the year for the holidays, it would leave only 265 days for the disposal of that immense number of suits, and a simple calculation would show that, supposing the three Judges were to sit regularly for five hours a day, there would be an average of six minutes for the decision of every case. It might be fair, however, to make allowance for cases compromised, and, on the other hand, for sickness or other unavoidable cause which might prevent the three Judges sitting for five hours every day; and doing so, about eight minutes would be a fair average. Now that was far too little, and he had observed that from want of Assistant Judges, the efficiency of the Court of Small Causes had been greatly diminished. The present Bill supplied that deficiency, and he therefore looked on it as a very wholesome measure. He would beg to offer a few remarks on its provisions for the consideration of the Select Committee. It would, he thought, be greatly to the public advantage if the Bill, in addition to providing Assistant Judges, would also give to the Government of Bengal the power of appointing different localities where they might sit. In Calcutta there was only one Court, and its distance from some portions of the town made it inconvenient to parties to resort to it. Such a provision had been introduced into the Police Act, but unfortunately it had never been acted upon, and he believed that great inconvenience had been felt by the community in consequence. He could not but think that Section XII—which provided that, "In suits which have been heard by an Assistant Judge, all motions for a new trial or to alter or modify a judgment given or order made in the cause, and all new trials, shall be heard by the Assistant Judge who heard the same in the first instance sitting together with the first Judge or such other Judges appointed under Act IX of 1850, as the said first Judge shall empower to hear such motions and new trials,"—would go far, if not to alter, to neutralise the effect of the Bill If he knew anything of the habits of his countrymen, there would be applications for review as in the Mofussil in a great many cases, and the higher Judges would be entirely occupied in hearing them: and, further, such a provision would prevent a speedy termination of a suit. With regard to Section III, he had intended to offer a few observations; but after what had fallen from the Honorable and learned Member who spoke last, he would refrain from doing so. He would, however, say that if the omission in the present Act of the words contained in Act IX of 1850 and in the Mofussil Small Cause Act, which had the effect of limiting the power of appeal at the discretion of the Judge, was advisedly made, he believed the extension of the jurisdiction to 1,000 Rupees would prove of great advantage. He had but one other observation to make, and that was that by Section VIII certain fees were allowed to barristers and attorneys. Now he could not see why pleaders educated in the English language and who had obtained high degrees at the University, should not be admitted to practise in the Court, when they were allowed to practise in the Sudder Court. He would content himself for the present by merely remarking that in its principle the Bill met with his cordial approval.

THE PRESIDENT said that he held in his hand a paper containing a few details which might be interesting to the Council, as containing information showing the practical advantage suitors would derive from the Bill. In the year 1861 there were sixty-five suits instituted in the Court in which an excess above 500 Rupees had been abandoned. In one case an excess of no less than 1,031 Rupees was abandoned. In two cases the excess amounted to 500 Rupees, and in five others it ranged from 200 Rupees to 500 Rupees In fifteen cases, "all excess" was abandoned, so that it was impossible to say what was the amount given up in each. As regarded the question of appeal, he believed that it was designedly provided by the present Bill that it should be imperative upon the Court to allow an appeal upon points of law in cases above 500 Rupees, whereas at present such appeal was in the discretion of the Judge. In cases above 500 Rupees there would be an appeal open to the parties as of right In other respects, including the question of new trials, the present Act did not make any alteration in the principle of the existing law, and therefore he did not think that there was much reason for the apprehensions expressed by the Honorable Member who spoke last.

The Motion was then agreed to, and the Bill was referred to a Select Committee, consisting of the Advocate-General. Baboo Rama Persaud Roy, and the Mover.

FINES ON VILLAGES FOR OUTRAGES AND TRESPASSES COMMITTED.

MR. FERGUSSON moved for leave to bring in a Bill to authorize the imposition of fines in cases of aggression and outrage committed by inhabitants of villages or Members of communities in the Provinces subject to the Government of Bengal. The objects, he said, of the present Bill were to check wilful and combined acts of aggression and violence committed by large numbers of the community, and for which the mass of the community were morally responsible. In certain districts of Bengal offences of this nature had been much complained of. The Deputy Magistrate of Commercolly had been an eye-witness of one of these aggressions which he described in his deposition before the Magistrate of Pubna in the following words:—

"I am Deputy Magistrate in charge of the Sub-Division of Commercolly. Mr. Stevenson, of Dobracole Factory, in my jurisdiction, wrote to me on the 8th February last, complaining that the ryots of Ambariah were trespassing upon his indigo on land decreed to him under Act IV of 1840. Subsequent to this he preferred verbal complaints to the same effect on several occasions I as often told him that I would visit the locality, and adopt such measures as it behoved me to do. I also, on receipt of his letter of the 8th February, issued instructions on the Koksha Thannah Darogah to proceed to the spot and report the real nature of Mr. Stevenson's complaint. According to my instructions, Mr. Stevenson met me at Commercolly, on Sunday, the 10th instant. I proceeded with him on horseback to Ambariah chur. When I approached Dobracole Factory, which is on my way, I requested him to show me the lands which were the scene of the trespass complained of. He pointed out to the north-east I think of the factory showing me upwards of a thousand head of cattle grazing on a plain, saying that they were all trespassing on his indigo, and further asserted that should he attempt to drive the said cattle off to the thannah pound, the Ambariah and other villagers would rescue them. After satisfying myself that the cattle were grazing on his decreed lands sown in indigo, I told him that should he desire to take the cattle to the pound and feared violent resistance, I should interfere and prevent any breach of the peace. He accordingly sent for some men and ordered them to go with a gomashta, whose name I don't know, to collect and bring the cattle away. On those men collecting some of the cattle together, I preceived about six or seven men, whom I took for herdsmen, run off in the direction of Ambariah and Moheshpatia I believe. Five or seven minutes after this I heard shouts proceeding from those villages, which appeared to me as if running from one village to another to give notice. Almost simultaneously with the shouts villagers came pouring out of the village, and moved down towards the men engaged in collecting the cattle. At this stage of the proceedings matters appeared to me to look serious. I immediately rode round to intercept these villagers placing myself between them and their village."

Now he did not think there could be a doubt that in the case described by

the Deputy Magistate, the villagers generally had combined in order to cause the destruction of a valuable crop, and the object of the proposed Bill was to check, as far as possible, such malicious combinations. It appeared to him that if a fine could have been imposed upon the village, and a portion of that fine had been paid to the owner of the injured crop, not only would justice have been done, but similar offences would have been greatly checked for the future. The principle of such general responsibility had been carried out with the very best result in an Act passed for the suppression of outrages by the Moplas in Malabar, and also for the levying of fines for the re-construction of buildings destroyed during the mutinies. He thought, therefore, that there was every reason to anticipate that the enforcement of the same principle would be attended with equal advantages in Bengal.

BABOO PROSONNO COOMAR TAGORE thought that the principle of the measure was most stringent and arbitrary. If they imposed a general fine upon the whole inhabitants of a village, many innocent persons must necessarily be punished, and it appeared to him to be a reversion to the old Mahomedan rule, and also to the early English rule in this country. A single instance quoted by the Honorable Member was by no means sufficient to induce the Council to take such a step, and he hoped that the Honorable Member would be prepared to furnish the Council with much further information before he asked them to read such a Bill in Council.

The Motion was put and agreed to.

CALCUTTA MUNICIPAL AND CONSERVANCY ACTS.

MR. FERGUSSON gave notice that at the next Meeting he would move for leave to bring in a Bill for appointing Commissioners for the Conservancy and Improvement of the Town of Calcutta, and for leying rates and taxes therein.

Also a Bill for the Conservancy and Improvement of the Town of Calcutta.

The Council then adjourned.

Saturday, March 29, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
Baboo Rama Persaud Roy,
Moulvy Abdool Luteef Khan Bahadoor,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
W. Moran, Esq.,
A. T. T. Peterson, Esq.,
Rajah Pertaub Chand Singh,
and
Baboo Prosonno Coomar Tagore.

FINES ON VILLAGES FOR OUTRAGE AND TRESPASSES COMMITTED.

MR. FERGUSSON moved that the Bill to authorise the imposition of fines for outrages and trespasses committed by inhabitants of villages or members of communities in the Provinces subject to the Government of Bengal, be read in Council. He had on a former occasion mentioned so fully the objects of the proposed Bill, that it appeared to him unnecessary to repeat them. He might, however, remind the Council that the principle of the Bill had been carried out with very excellent effect upon previous occasions, both in the Act for the suppression of outrages in Malabar, and in levying funds under Act X of 1858 for the re-construction of public buildings destroyed during the mutinies. He had every reason to hope and believe that the enforcement of the same principle would have an equally good effect in the provinces of Bengal. In framing the Bill, he had been much guided by the Act of 1858, which, as the Council were probably aware, was originally prepared and brought forward by the present Chief Justice. The Bill provided that, previously to levying any fine on a village or community, the sanction of the Court of Session should be obtained, which would, it was believed, prevent the imposition of such fines on insufficient

grounds or on doubtful evidence. Under Section IV an appeal was allowed to the same Court, when the fine assessed on any persons exceeded 50 Rupees: thus following the general principle regarding appeals, as contained in the Code of Criminal Procedure. On a previous occasion an Honorable Member had raised an objection to the Bill on the ground that in carrying out its provisions the innocent might suffer with the guilty. Now that was an objection that might be urged against every penal enactment. But in the present case there was less than the usual chance of such injustice, because, under Section III, every innocent person could escape punishment by simply rendering assistance to the police. He trusted that the Bill would have the effect of teaching the people of Bengal a lesson they very much required to learn, which was that it was their duty always to assist the Magistrate and the officers of the law, as far as possible in the repression, and detection of crime

MR. MAITLAND felt very great pleasure in expressing his entire approbation of the principle of the Bill. It appeared to him to be a wise and just principle, and one that, having been acted upon in England, had been productive of the best results. For his own part, he hoped the Bill would meet with no serious opposition, and he would be glad to see it carried by acclamation. To his mind it appeared to be a Bill of more importance than any that had yet been introduced into that Council, because, although in itself it was intended specially to cure an evil with existed in one part of the country, it involved a principle which might, and he hoped would, become one of general application. That principle was one almost universally recognised. It had been long known and acted upon in England, where it was introduced by our freedom-loving Saxon ancestors—men, however, who loved justice as much as they loved liberty. From the time of the great and good Kind Alfred it had been established that in certain cases the county, or hundred, should be responsible for outrages committed within it. In a country not remote from this,—namely, China,—the same principle had been known from remotest antiquity; it was laid down by Confucius, and was acted upon to the present time. And he would hail with great pleasure the introduction of such a system into India. The principle on which this Bill was founded appeared to be that where persons suffered wrong by riots or outrages, and when the individual wrong-doers could not be discovered, but it was known that they belonged to a community which had not prevented the wrong, but had rather profited by it, then, that community should be punished by a fine which could, at once, compensate for the loss sustained, and prove to all that neither could culprits escape in a crowd, nor could a crowd be allowed with impunity to shelter them. The Honorable Member who had introduced the measure had on a previous occasion read a graphic and most interesting account of an outrage which had been committed under the very eyes of a Magistrate, and for which no remedy was to be found except in a law such as this Bill contained. Another Honorable Member shortly afterwards spoke of the measure having a tendency to make the innocent suffer with the guilty. Now, if it came to a question of suffering, one innocent sufferer at least might always be found,—for he looked upon the men on whom the injury was inflicted by such outrages as it was the object of the Bill to suppress, as being the real and the most likely to be the innocent sufferers. In the case referred to, it was evident, from the way in which the alarm was given and a rescue attempted, that some close combination existed, and the sooner that was put an end to, the better. If the Bill had proposed to inflict any personal punishment, another principle would have been introduced; and he admitted that it was better that nine guilty persons should escape than that one innocent person should be punished But it proposed no personal punishment and only went the

length of affording just compensation to the injured party, and that in such a manner as to prevent a recurrence of the offence. The weight of evidence adduced in the annexure of the Bill was in favor of its principle, as out of six Commissioners who had been consulted, five were in its favor; and believing as he did that it was a principle which might be advantageously applied, not only to Bengal, but to the whole world, he would support the Bill.

MOULVY ABDOOL LUTEEF entirely failed to perceive any necessity for the Bill now before the Council. The immediate occasion for introducing a law to provide for the punishment of entire masses of the population combined for illegal purposes was a case or two of ryots committing trespasses attended with violence on a scale suggestive of whole villages being concerned in their perpetration. The law at present in force was quite sufficiently explicit and decisive in punishing such offences. If the facts referred to in the papers before the Council took place as related, it was the duty of the officers of Government to put down every manifestation of violence on the part of the riotously inclined: and the failure to carry out a very obvious duty was susceptible of other explanation than the defective state of the Criminal Code. There were in the Penal Code the most completely framed provisions for securing the public tranquility and the rights of private individuals against the efforts of the lawless and the malicious. In fact, the portion of the Code which the present Bill was intended to supplement happened to be far more reaching in its penal clauses than this attempt to improve upon them. The mere belonging to an unlawful assembly with guilty knowledge was punishable with imprisonment with or without hard labor for six months, or with fine, or with both, and an unlawful assembly was thus defined:—

"An assembly of five or more persons is designated an 'unlawful assembly,' if the common object of the persons composing that assembly is

"*First.*—To over-awe by Criminal force or show of Criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant-Governor, or any public servant in the exercise of the lawful power of such public servant; or

"*Second.*—To resist the execution of any law or of any legal process; or

"*Third.*—To commit any mischief or criminal trespass, or other offence; or

"*Fourth.*—By means of Criminal force, or show of Criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water, or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

"*Fifth.*—By means of Criminal force, or show of Criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do."

The Ambariah rioters would not have the slightest loop-hole of escape from provisions so stringent and precise, if evidence were forthcoming of their having combined to resist the officers of justice, or to obstruct the peaceful enjoyment by European gentlemen of rights as landlords or planters. The Code was proportionately severe against joining an unlawful assembly armed with any deadly weapons, as well as against rioting, or hiring others to create a riot. He saw no reason why the law, as it stood, should not have a fair trial, or why recourse should be had to tinkering it before any flaw in its spirit or letter could be proved. There was another very serious objection to this Bill to be considered. It was intended to work against communities, whose active and personal complicity in disorderly meeting could not be positively demostrated, but who might be presumed to profit by, if not participate in, them. That was, if a riot or riotous assembly took place in the neighbourhood of a village, "morally responsible" for outrages arising out of such proceedings, then the whole of the inhabitants of the village except those who turned police informers, were liable. It was sufficient if the Magistrate were convinced that a "large number" of those inhabitants had combined to commit an outrage, the whole village must

suffer! Then the only appeal from him was the Sessions Court, a limitation of the means of redressing hasty decisions, which must in every instance go against the interests of the accused. Who that had any experience of the Mofussil, could doubt for a moment the absolute facility with which it might be made apparent to the Magistrate that a number of men, assembled on a certain night close to a Bengalee village, ploughed up neighbouring lands, destroyed crops, and committed other damage? nay, that some of the men were recognized as belonging to the village? And yet for the offence of these, who might have been the hired budmashes of anybody in the neighbourhood, the respectable and peaceful might be amerced and sold out of house and home! He spoke from knowlenge of things as they happened in the interior of the country, and nothing was more common than for parties to get up sham-cases against each other, to send for hired ruffians, have them to destroy their own crops, and then charge the nearest villagers with it. The proposed enactment was just suited to further such objects, and none other. Moreover, a measure for fining whole communities was simply nothing more nor less than a measure for screening the inefficiency and idleness of the police, and for opening a vent for the malice of the zemindar or planter. There was absolutely no limit to the power here vested in a Magistrate. If a zemindar or planter chose to bring three or four of his own servants to declare that the inhabitants of certain villages had destroyed his crop, and if the Magistrate should be satisfied that that was so, without taking any other evidence, he might impose on a village a fine of a lakh of Rupees; this it would be impossible to pay, and thereupon the Magistrate might sell up the village to the said zemindar or planter. The practical working of this Act would be to deliver up the whole of the villages of Bengal into the hands of the zemindars and planters. On the whole, he could scarcely imagine any thing more calculated to disturb the operation of laws already in force against illegal conspiracies and combinations on the part of agricultural communities. They provided for the punishment of those only who might be individually proved to have committed offences; and the present was an endeavor to substitute suspicion and presumption for proof against entire masses of the population,—to condemn thousands of men on evidence which would not suffice for the condemnation of a single man. He therefore opposed this Bill being read in Council; but, if Honorable Members would be of a contrary opinion, he would move for the production of certain papers which he named.

BABOO PROSONNO COOMAR TAGORE objected most strongly to the principle of the Bill. At present the law certainly gave no power to punish the innocent for the guilty, but this Bill appeared to be framed with the view of supplying that deficiency. With regard to the cases referred to in the Annexure in support of the principle of the Bill, he could not see their applicability. If the Council were legislating for a warlike people like the Rajpoot and Jât villagers of the Upper Provinces he could understand the necessity of having resort to stringent provisions like those laid down in the Bill; but the natives of Bengal were notoriously a timid race, and were always ready to run away at the sight of a few policemen. If, therefore, in the case given in the Annexure things had been properly managed, the whole of the cattle destroying the indigo crop could have been easily driven to the pound. Although that was the real state of the case, it was now suggested that they required an important change in the law to keep the ryots in order. He should not so much object to a provision to fine persons proved to have been present at any outrage, but he objected to giving a power of indiscriminately mulcting a whole village. The Government, however, was responsible for the preservation of the peace of the

Moulvy Addool Luteef

country, and if they considered that such a law was necessary to ensure it, he was not prepared to incur the responsibility of directly opposing the Bill. At the same time, however, while consenting to the Bill being read in Council, he reserved to himself the right of objecting to its details, and even to its principle, when the Bill came before the Council for the settlement of the Clauses.

MR. MORAN said he should consent to the Bill, as he approved of the principle which he thought ought to receive the support of that Council It was an unpleasant circumstance that in the late cases of outrage alluded to, European landlords had been the principal sufferers, because the introduction of such a Bill might have, to prejudiced minds, the appearance of partizanship; but it was not so. What had happened to European might occur to Native landlords and others, and we were, therefore, not legislating for a party, but for the whole community To some extent that Council was a representative one, and he might, therefore, to a certain degree consider himself the representative of the European landlords and planters; but, nevertheless, he certainly should be sorry to treat the question in a partizan spirit; for he ventured to hope that neither he himself or the body he represented, would ever be found ready to support any measure not consonant to justice and good policy, or incompatible with the public good. Some Honorable Members denied any necessity for the Bill, and called for further proof. It appeared to him that the great caution shown by the Government in not bringing on the Bill before, till after months of grave enquiry, went far to prove the necessity. As to the rest, the Council did not sit there as a judge and jury in court, bound to decide only on strictly legal evidence; on the contrary, he considered that Honorable Members should bring to bear on the discussion of questions before them, all their experience and outside knowledge of facts and circumstances relating to such questions, and in the present instance they had full information from the public press, from authentic and other sources, and he would not believe, therefore, that any Honorable Member could deny the fact of very serious outrages having been committed. So far from believing that the Bill would further oppression, he was satisfied that, if properly worked, it would prove a blessing to the well-disposed of the community, who, though in the majority, were timid and allowed themselves at present to be ridden roughshod over by the evil-disposed, who lived by agitation and disturbance. He hoped the Council would pass the Bill, for he was convinced that, if administered with impartiality, prudence, and firmness, it would secure respect for the law and the proper authorities, and give protection to life and property, the aim and end of all good laws. With this conviction he gave his hearty support to the Bill.

BABOO RAMA PERSAUD ROY had not had time to study the Bill properly; but the subject was one so important and so difficult that he should not like to give a silent vote. There were in favor of the principle of the Bill no doubt, the opinions of six Commissioners founded upon reports of the highest authority. He might add that he agreed with an observation that fell from an Honorable Member, that as the Executive Government was responsible for preserving peace in the Bengal Provinces, it would not be wise or expedient for that Council to oppose any measure that they might bring forward for that purpose. At the same time, however, the remedy proposed was of a most extraordinary and exceptional character, and could only apply to exceptional and extraordinary cases. It was unfortunately true that there had been exceptional and extraordinary cases which had occurred of late years: and to meet such cases laws of an exceptional character had been passed, first in 1854, and subsequently in 1858. In those cases, however, the law was of a temporary character, in the one limiting the operation to three or four years, and in the other to two. He did not see any reason

why the same principle should not be adopted in the present instance. He was of opinion that power should be given to the Executive Government, as in Act XXIV of 1855, to bring any portion of the Provinces subject to that Government, by proclamation, under the operation of the Act, whenever the exigencies should render recourse to such measure necessary. He could not coincide with the opinion expressed that the Penal Code contained ample provisions for dealing with offences such as those which were the subject of the present Bill. The Bill proposed to deal with offences committed by large numbers of persons,—offences of a character which did not come under the provisions of the Penal Code or of the Criminal Procedure Act, and where conviction was impossible. He had considered the point as attentively as he could, and it appeared to him altogether impossible, by the present law, to reach such offenders as would be dealt with by the present Bill. There could be no doubt that some provision should be made for the punishment of offenders who could not be brought to justice under the existing law. At the same time, in adopting such a measure, it was most necessary to take extreme care that it should be so framed as to render it impossible that it should be converted into an engine of oppression. As regarded the details of the present Bill, he thought they might be vastly improved. Among other points, as observed by him before, he thought it would be as well that power should be reserved to the Local Government to extend the provisions of the Act to such districts as they might think fit, and also to withdraw others from its operation. And some provision should be made for giving publicity to the intention of a Magistrate to inflict a fine, in order to give persons the power of coming forward for their own protection before the Sessions Judge. It might also be advisible to fix some limit, such as 10,000 or 20,000 Rupees, and to allow an appeal or reference to the Sudder Court in cases where the total fine imposed exceeded that limit. He would only add that the principle of the Bill was not a new one, and although its details were susceptible of great improvement, it ought to be framed so as to apply only to offences that could not be reached by the Penal Code, nor by the Criminal Procedure Act. The questions of detail would be for the consideration of the Select Committee. In the meantime, without committing himself in regard to them, he would not object to the reading of the Bill.

RAJAH PERTAUB CHAND SING was of opinion that the tendency of the Bill was to inflict punishment on large numbers of innocent persons. Even where outrages were really committed, very many of the villagers took no part in the aggressions complained of. Out of a thousand villagers, two or three hundred might commit an offence of the kind referred to, and the whole of the rest of the villagers might disapprove of their doing so: yet this Bill would punish not only the two or three hundred, but all the others also. This was surely most unfair. The people generally did not give the Police so little aid as was alleged. But the truth was that, when the Police did get assistance, they never would report to the Magistrate that they had got it unless they were paid for reporting it. He was afraid that the Bill might be made an instrument of oppression by designing zemindars and planters, and he did not think that the one or two instances of outrage which had been referred to, afforded sufficient grounds for the introduction of such a measure. He should, therefore, object to the Bill being read in Council.

MR. PETERSON did not intend to offer any comment upon the particular Sections of the Bill. As regarded its principle, he had no hesitation in saying that he believed it to be a sound and correct one, and also that there was sufficient evidence before the Council to show that it was required by the country. The Honorable gentleman who moved the reading of the Bill would not have done so had he not been assured of its necessity. For his own part, if he were to express

Baboo Rama Persaud Roy

any objection to the Bill, it would be on the sole ground that it did not go far enough. He should like to see the English principle of the liability of counties and hundreds in full force, and people taught to consider themselves conservators of the public peace. Certain Honorable gentlemen had objected to the provisions of the Bill, and no doubt they had a perfect right to do so. He hoped, however, the Council would acknowledge the justice of its principle, and that questions of detail would be reserved until the Bill went before the Select Committee. The Honorable Member who had spoken third, had said that the Penal Code would apply to this particular description of offence. Now he would admit that Sections 141 to 160 of the Code contained a valuable series of enactments against disturbers of the public tranquility; but then these Sections only applied to cases in which persons could be proved guilty, whereas in the cases which the Bill had in contemplation, combination rendered it in vain to attempt to obtain regular evidence of the commission of the offence, and rendered any conviction impossible. He was old enough to remember, in Ireland, that a similar principle had once to be applied there. And when he found that through combination the existing law became a dead letter, he could not shut his eyes to the necessity of passing some measure to alter the present state of things. If people would assist the Police, the Bill would become a dead letter, and he hoped that in that sense it might. But he would appeal to the native gentlemen who were present in that assembly, and ask them whether, as a rule, a village community was not more prone to shelter a delinquent than to deliver him up to the Police. It was very easy to say that the Penal Code provided a remedy, but the fact was, that if it were impossible to obtain evidence, punishment could not be inflicted: the Penal Code then became inoperative, and it was against such a state of things that this Bill was intended to provide. As he had said before, his only objection to the Bill was that it did not go far enough. The right and correct principle was that persons should be taught to regard themselves as the conservators of the public peace. He trusted that Honorable gentlemen would support the Bill, and that they would not look upon it as invidious legislation towards any particular class. It was in truth a measure founded on a broad and general principle, and he had no doubt that it would prove highly beneficial to the public at large.

MR. LUSHINGTON wished to say a few words, founded on his own personal experience, in support of the Bill. Cattle trespass, which was one of the offences which more particularly fell within the scope of this measure, was a crying evil in every zillah throughout the country. When out in his district he had himself over and over again been told by ryots that their crops had been eaten by cattle well known to have come from a neighboring village, but the individual offenders could not be pointed out, and therefore there was little or no redress for the sufferers. So constant was the practice, that there were few ryots who did not sleep in the fields to watch their crops. In most villages there were more cattle than could fairly be pastured on the land belonging to the village. The cattle were made over to cowherds, who sent them out to feed wherever they could, and the consequence was that the crops of the neighboring ryots were constantly destroyed. In many places men known for their skill in the use of the stick were regularly employed as cowherds, and were ready at any time to fight for their cattle. Some of these men, having on a recent occasion been employed as policemen, stated their impression that their new calling was very poor work,—for catching a thief was very poor work after watching cattle and fighting daily for their food. In addition to these cattle trespasses many other outrages also took place, which would come under this Bill. Boats were constantly wrecked on the rivers, and in such cases there was almost invariably an act of trespass committed: for the neighboring vil-

lagers generally assembled in a body and pillaged the wreck. Again, in Behar it was well known that people had to watch anxiously their water-courses for fear of the streams being turned off by their neighbors in another direction: and to such a case as that the provisions of this Bill would be applicable. The principle of making villagers responsible had been acted upon in Assam, and indeed was well known practically among the zemindars already. He himself remembered some years ago in Patna, after a murder had been committed, the mode by which the darogah discovered the culprit. The villagers would give no assistance or information. But the darogah simply went to the village where he knew the offender had taken refuge, and told the people they had better give him up, for that, if they did not, he would give them so much trouble and annoyance that they would be glad to do any thing to get rid of him. That was perhaps not a very legal mode of proceeding on the darogah's part, but practically it was beneficial, and taught much the same lesson that this Bill, if passed, would teach. He gave his cordial assent to the Bill, and he had authority to state that any correspondence that had taken place on the subject would be laid before the Select Committee.

The question being put, the Council divided;—

Ayes 9.	*Noes* 2.
Baboo Prosonno Coomar Tagore.	Rajah Pertab Chand Sing.
Mr. Peterson.	Moulvy Abdool Luteef.
Mr. Moran.	
Mr. Maitland.	
Mr. Bullen.	
Baboo Rama Persaud Roy.	
Mr. Lushington.	
Mr. Fergusson.	
The President.	

So the Motion was carried, and the Bill was referred to a Select Committee, consisting of the Advocate-General, Baboo Rama Persaud Roy, Baboo Prosonno Coomar Tagore, and the Mover.

MUNICIPAL COMMISSIONERS FOR THE TOWN OF CALCUTTA.

MR. FERGUSSON moved for leave to bring in a Bill for appointing Commissioners for the Conservancy and Improvement of the Town of Calcutta, and for assessing and levying rates and taxes for Municipal purposes in the said town. He said that about the middle of last year, that very active body, the Trades' Association, presented a memorial to the Government of Bengal, in which they complained of the insufficiency of the Municipal arrangements, and urged the appointment of a fixed commission to enter fully into the subject with a view to the establishment of a Municipal Administration adequate to the requirements of the city. The Lieutenant-Governor at once complied with the request, and a mixed commission was accordingly appointed, consisting of Mr. Seton-Karr, Colonel Beadle, Dr. Chevers, Mr. Fitz William, Mr. Jennings, Baboo Prosonno Coomar Tagore, Baboo Degumber Mitter, Mr. Lazarus, and Lord Ulick Browne. This commission was directed to enquire into, and report on, the alleged inefficient state of the Municipal arrangements, and to suggest, with reference to their supposed inadequacy for the present requirements of the city, what measures should be adopted to place the administration of the Municipal affairs on a sound and efficient footing.

The proceedings of the commission consisted in the examination of persons connected with the present Municipal Commission, in the invitation of suggestions from all quarters, and in the consideration of such documents as were likely to offer any valuable information on the subject. The result of their deliberations is comprised in their Report, dated 31st August last.

In this Report the Committee state as follows:—

"The result of our enquiries and discussions has been to establish in our minds the conviction that the main want of Calcutta, as regards conservancy, is an adequate supply of funds, and that without such adequate supply it

is vain to look for those great works of which the city stands confessedly in need, and to which, from its importance and size, it is entitled."

The Committee proceed to record their opinion that—

"the present form of administration might with advantage be exchanged for one in which the inhabitants could themselves take a more direct and active part in Municipal arrangements, under which much of the duty that now falls on the Board of Commissioners might be divided amongst local Committees, and which without much extra expense, might excite a spirit of emulation amongst the residents, such as could not fail to have beneficial results on the sanatory state and general conservancy of the city."

The scheme of the Commission contains a recommendation for the abolition of the present Municipal Commissioners, and the introduction, in their stead, of six local Boards, one for each division of the town and of one Central Board. Every Board, it is proposed, shall consist of six members to be nominated by Government, but without any salary attached to the office. On receipt of this Report, the Lieutenant-Governor addressed the Government of India, and stated that, looking to the fact of the above scheme having the unanimous support of the entire commission, which was composed of intelligent gentlemen representing all classes of the Calcutta community, the Lieutenant-Governor presumed that it might be accepted as a correct expression of the wishes of the inhabitants in general, and that a sufficient number of gentlemen would be found prepared to take upon themselves their share of the burden of carrying the scheme into execution. He therefore, recommended it to the favorable consideration of His Excellency the Governor-General in Council as an experiment which ought to have a fair trial, and he requested permission to promote such legislative measures as might be necessary to its introduction. In reply to this it was stated that the Governor-General in Council concurred with the Lieutenant-Governor in thinking that the scheme proposed by the commission should receive a fair trial, and he authorised the Lieutenant-Governor accordingly to promote such legislative measures as might be necessary to its introduction. He (Mr. Fergusson) now asked for leave to bring in a Bill containing as far as practicable the alterations suggested by the Commission: and in order to raise money which the Commissioners most truly remark is "*the main want of Calcutta*" in conservency matters, it was proposed to levy a water-rate not exceeding two and a half per cent. of the annual value of all houses, buildings and lands in Calcutta, the estimated monthly rent of which was not less than ten Rupees, such rate to be payable in quarterly assessments by the occupiers of such houses, buildings, and lands. Further, it was proposed to double the present wheel-tax, and to charge a registration fee of six Rupees annually for every cart and hackery,—which, however, would not also be charged with the wheel-tax.

At this stage he need not detain the Council by entering into further details. He very earnestly hoped that the proposed experiment might entirely succeed; but he could not avoid feeling very considerable doubts on the subject. He feared that in this country unpaid labor would not be found efficient; and he was of opinion that, in India especially, conservancy arrangements should be placed in the hands of a single responsible individual, armed with full powers. Numerous Boards were very apt to cause embarrassment and delay for which none of the members ever felt individually responsible.

The Motion was put and agreed to.

CONSERVANCY OF THE TOWN OF CALCUTTA.

MR. FERGUSSON moved for leave to bring a Bill for the Conservancy and Improvement of the Town of Calcutta. He explained that the object of this Bill was merely to repeal Act XIV of 1856 and re-enact it with the necessary alterations, consequent on the introduction of the Bill for the bringing in of which he had just obtained leave. The two Bills formed part of one scheme.

The Motion was put and agreed to.

The Council then adjourned.

Saturday, April 5, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
Baboo Rama Persaud Roy,
Moulvy Abdool Luteef, Khan Bahadoor,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
W. Moran, Esq.,
A. T. T. Peterson, Esq.,
and
Baboo Prosonno Coomar Tagore.

REGISTRATION OF UNDER-TENURES.

BABOO RAMA PERSAUD ROY moved that the Report of the Select Committee on the Bill to amend Act XI of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency), be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was agreed to, and the Sections were passed as they stood. The only alteration which was made was an immaterial one in the Preamble.

SIGNALS FROM VESSELS IN THE RIVER HOOGHLY.

MR. BULLEN moved that the Report of the Select Committee on the Bill to enforce the hoisting of signals of the names of vessels passing Signal Stations established within the River Hooghly and the branches thereof, be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was carried, and the Bill was agreed to without amendment.

The Bill was then passed on the Motion of *Baboo Rama Persaud Roy.*

COURTS OF SMALL CAUSES IN THE MOFUSSIL

MR. FERGUSSON moved that the Report of the Select Committee on the Bill to amend Act XLII of 1860 (for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter), be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was carried, and the Bill was agreed to without amendment

On the Motion of *Mr Fergusson*, the Bill was then passed

PUBLIC CONVEYANCES IN CALCUTTA AND THE SUBURBS.

MOULVY ABDOOL LUTTEEF moved for leave to bring in a Bill for regulating public conveyances in the town and suburbs of Calcutta. The subject had been so frequently under the consideration of Government, as well as of the public, that any thing from him by way of explanation would be superfluous. So far back as 1857, or six years ago, the municipal authorities of the town urged the propriety of a legislative measure to restrain the extortion of native livery stable-keepers, provide a regulated scale of fares, and otherwise place the relations between the *garree*-hiring community and the owners and drivers of *garrees*, on a satisfactory footing. Since then two efforts had been successively made to carry out the recommendation, but, from unavoidable causes, without any definite results. It was the duty of the Local Legislature to give its attention to wants so repeatedly urged by a large and influential portion of the public, and acknowledged to be deserving of regard by their predecessors in the work of legislation. It was therefore in the belief that what he proposed

would be eagerly accepted outside and approved by the Honorable Members of this Council, that he asked for permission to introduce this Bill.

The Motion was put and agreed to.

The Council then adjourned.

Saturday, April 12, 1862.

PRESENT:

His Honor the Lieutenant Governor of Bengal
Presiding

F. H. Cowie, Esq., *Advocate General*,	J. N. Bullen, Esq.,
H. D. H. Fergusson, Esq.,	W. Maitland, Esq.,
E. H. Lushington, Esq.,	A. T. T. Peterson, Esq.,
Baboo Rama Persaud Roy,	and
Moulvie Abdool Luteef, Khan Bahadoor,	Baboo Prosono Coomar Tagore.

PUBLIC CONVEYANCES IN CALCUTTA AND THE SUBURBS.

MOULVIE ABDOOL LUTEEF moved that the Bill for regulating Public Conveyances in the Town and Suburbs of Calcutta be read in Council He felt, he said, in so doing the easy position of one who had nothing unusual to advance and no opposition to encounter. The Honorable Gentlemen, who had successively undertaken the task, and had gone through the work of enquiry and report, had invited and obtained the comments of the public on the merits of the proposed enactment, and had embodied the result of the whole in opinions which had mainly guided him in the details of this Bill; so that there was hardly a subject so thoroughly matured and prepared for legislation, or on which the minds of people were so generally made up. To any one who had observed the vastly increasing prosperity of Calcutta, the increase of commerce and business of every description, it must be surprising how the convenience of those to whose ceaseless movings all this progress and improvement were owing, was neglected. For their benefit it was nothing but right and proper that the Council should establish laws and usages which were in vogue in all civilised cities of the world, and the want of which here had been long and pressingly felt. It was not his intention to trouble the Council with details of the proposed Bill; but to one or two points he would draw special attention. The Bill, if passed into law, would not affect European Livery Stable-keepers, and for a reason which was in no degree invidious. They should legislate in the interests of society only in matters connected with the absolute wants and necessities of those composing it. To the man of business it was a matter of absolute necessity that he should be able to get a conveyance to carry him to his work, provided he were going to pay for it. And to give him the right of hailing one at the nearest stand, and of bringing the law to punish non-compliance with a proper offer, was a real boon to him, while it violated no principle of justice or fairness. But hiring a carriage or phaeton at Cook's or Hunter's was not an every-day necessity, and few resorted to it, except on occasions that warranted at all events in their own eyes, the expense. No one ever complained of being made to pay sixteen Rupees for an hour's use of a coach and pair, or eight Rupees for a buggy. Those who paid were satisfied, and it was not for the law to prevent people from spending their money in any way they chose. It was quite different, however, when people absolutely depended for very livelihood on the daily use of conveyances, and those were in the hands of a class of persons not very scrupulous as to the use they made of their advantages, and in such cases the law could well interpose. Then it was proposed to bring under proper regulations the large body of Palkee-bearers in and about Calcutta,—a measure that could not fail to be agreeable to a large section of the community at the Presidency. But while the duties of Carriage-owners, and those of Palkee-bearers, were sought to be defined, strict care was taken to give the means

of quick redress in all instances of ill-treatment and unfair withholding of hire. With these remarks, reserving further discussion for a more convenient opportunity, he begged leave to move that the Bill be read.

MR. MAITLAND had looked with great care through the Bill itself, and the papers which accompanied it, and also through the English Act regulating the hackney carriages in London. He was not going to oppose the introduction of the Bill, for he thought that any Bill having for its object the remedy of a recognized inconvenience, unless absolutely vicious in principle or radically defective, ought to be considered by the Council. Upon looking through the Bill itself he saw many errors, both of omission and commission. He took as a basis the English Carriage Act, because it was well known that in England public conveyances were very well regulated. He wished to call attention to some of the Clauses of the present Bill, which required careful consideration. The Bill reminded him somewhat of the old joke of the play of Hamlet with the part of Hamlet omitted, for nothing at all was said upon the subject of fares. That was a subject of great interest, and all that the Bill proposed was to refer the fixing of the rate of fares to some Officer of the Government. Now it appeared to him, that even if it were considered expedient at a future period to give such power to a Government Officer, yet that in bringing forward the Bill some opinion ought to be expressed on the subject of the rates of fares. In one petition which he had looked into, a suggestion was made as to what should be the charge for a day, a half day, or an hour, and that was a very important question. Section I related to carriages hired for a period less than a day, and he could not see why the principle should not be applied to a whole day. It was also, he thought, a great omission that nothing was said on the subject of luggage. In Section X of the Bill, there was a distinction made between *registered* carriages *and licensed and registered* carriages, so far as regarded fixing a table of fares in a conspicuous part of the carriage. It was enacted that it must be done only in the case of the former class of carriages, whereas the latter was the class which would be most used. Any person letting out a carriage which was only registered might, it appeared to him, under the Bill, content himself with putting up a table of fares in his own yard. He thought that the English plan might advantageously be adopted, namely, that every driver should be obliged to have a list of fares conspicuously placed in his carriage, and also to supply every passenger who hired him with a ticket containing the number of the carriage. He had no doubt that it was the intention of the framer of the Bill to apply the rule to both classes of carriages, but the provisions of the Bill failed to do so. Another Section required, that in cases where a carriage was to be retained above three hours, the driver might insist upon a deposit of the amount of fare due for three hours. That was no doubt intended to prevent oppression, and to save drivers from being cheated, but he thought that the probable effect would be that, if a person hired a carriage to go to a concert at the Town Hall, or anywhere else, and gave the coachman the deposit specified, it would be a great temptation to him to drive away. It was true that he would be liable to punishment if he did so. But there might be a great deal of inconvenience in appearing to support a complaint against him, and it would be better that the coachman should be required to stop and watch for his fare. Again, nothing was said as to the question of speed in hiring by the hour. By the English Act, a driver was compelled to go at a speed of four miles an hour. And some such provision was necessary in the present Bill, or else drivers would go at the slowest pace they possibly could. It would also be advisable to provide that a book of distances should be compiled be authority, which should be at once admitted in the Police Courts as conclusive evidence on that subject. The Sections after XXVI referred to Palanquins. Now it was quite true that they

provided that Palanquins should be registered, but he failed to detect any provision for punishment in cases of non-registry. Another question which might arise was whether in this country it would be desirable or not that informations should be laid by *any body*. In the English Act, it was provided that no information should be laid, except by the Solicitor to the Revenue or the Police. The drivers here wanted a great deal of looking after, and it might be advisable to allow a system of informers; but that was a question worthy of discussion and consideration. The Sections of the Bill required great care on the part of the Committee. He did not speak in any invidious spirit. He was glad that the Honorable Member had taken the matter in hand, and thought he deserved the thanks of the Council for so doing.

MR. PETERSON wished to make a few remarks before the Bill went to the Committee. It was undoubtedly a step in the right direction, but great care was necessary to avoid interfering with the convenience of a large class of the native community. It might be all very well, so far as Europeans were concerned, to have something approaching to a fixed scale of fees for hired carriages. But there was a large class of carriages of an inferior description, and if they were placed on the same scale as those of a better class, the effect would be to put an end to what was a great convenience to the mass of the community. A Regulation which might be very useful to one class of carriages, might not only not be useful, but might be positively ruinous to another. He would suggest that there should be two sets of rules, one for the better class of vehicles, and another for those in use by the bulk of the native inhabitants of Calcutta. It did not appear that the Bill contained any provision for taking carriages out of the local limits within which registration was to be made compulsory. Supposing he were to send for a carriage to convey him to Barrackpore, the driver would not be obliged to go beyond the limits of Calcutta and the Suburbs, as defined by the Act of 1857. He thought that it was only right that drivers should be compelled to go a reasonable distance: but of course in return it would only be right to establish the principle of a back fare beyond certain prescribed limits. That however was a question which would be better settled in Committee, but at the same time he thought it as well to mention it on the present occasion. The question of fares had better be settled by the Council than left to the action of the Government. He remembered the manner in which some Regulations were once laid down by Government on the subject of the fares of Dinghees. The result of those Regulations was that when persons found, from the plates exposed in the boats, that they could be compelled to pay four annas when they had previously only paid two or three pice, the Act became a dead letter, for they universally resorted to private agreement with the boatmen. Great care was necessary in fixing the charges, and whoever did so, should avoid the result to which he had referred, namely, establishing fares on a scale which must cause the Act to become a dead letter. If they were fixed too high persons would have recourse to private agreement. If the fares laid down were in amount near to the present fares, the Act would be most useful, and would do away with many inconveniences. At present a person engaging a carriage was often compelled to pay in advance, while the driver took his own time in coming, and frequently came so late, that the carriage was of no use when it did arrive. In carrying out the measure injury must not be done to a considerable class of persons. There were some 30,000 persons employed in various offices, who came daily from different parts of the Town and neighbourhood in a different class of carriage to that which Europeans usually would hire, and he thought that on their account there ought to be two classes of fares.

BABOO PROSONO COOMAR TAGORE did not wish to oppose the introduction of the Bill, but would offer two or three suggestions

for the consideration of the Select Committee who would be entrusted with the revision of the Bill. Section XI provided that the fares should be fixed by a Government Officer, but that was most objectionable in principle. He for one was not disposed to entrust any such power to the Executive Authorities. By Section XV the owners of registered carriages were compelled to let them out when required to do so by any person, so that they would be obliged to trust to any unknown person under a penalty; whereas, if any person refused to pay an owner, he would be compelled to go before a Magistrate to recover the fare. This was a great hardship, and there ought to be some better provision for the protection of the owners of carriages let out for hire. The theory of political economy was that every man should be left to follow his profession without interference from the Government authorities, and should be allowed to charge whatever he thought proper for his labor, and that the demand regulated the fare. But Government interference for the greatest good of the greatest number sometimes became necessary; and this was one of the cases for interference. He did not see any reason for not including in the Bill the regulation of carts and boats. They were often a source of annoyance and inconvenience to such of the public as required to hire them. They was already an Act for licensing boats and fixing the number of passengers, and why should not all sorts of boats, whether for the conveyance of goods or passengers, be subject to regulation? The principle was the same as observation was equally applicable to carts. For instance, the loads that upon them should be fixed, to prevent the cattle by which they were drawn from being ill-used, as was the case in the streets of Calcutta. Whilst on this subject, he could not forget the *coolies* [illegible] ers, of whom there were so many thousands coming to this city for employment, and who were often tempted to walk away with the property entrusted to them. How often had Members heard of a Sicar being followed by a coolie with a bag of money on his head, and the Sircar, on turning back, perceiving that the coolie had walked off with the bag? In such cases generally it was impossible to identify the man to whom the stolen property had been entrusted. Were coolies to be registered, and distinguished by badges with numbers on them, runaways would be easily detected.

All these were matters connected with the general question of public conveyance, and were the subjects of legislation elsewhere They might be properly included in the Bill before the Council, for consolidation of laws on similar subjects was the order of the day. The Bill required alteration in other matters of detail, but these he would leave to the Select Committee.

MOULVIE ABDOOL LUTEEF said that all the points which had been raised could be considered by the Select Committee.

The Bill was then read and referred to a Select Committee consisting of the Advocate-General, Mr. Lushington, Baboo Rama Persaud Roy, Mr. Maitland, and the Mover.

REGISTRATION OF UNDER-TENURES.

BABOO RAMA PERSAUD ROY brought forward the Bill to amend Act XI of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency), and moved that it be passed.

The Motion was agreed to; and so the Bill was passed.

SURVEY OF STEAMERS IN THE PORT OF CALCUTTA.

MR. FERGUSSON moved that the Report of the Select Committee on the Bill to provide for the periodical Survey of Steam Vessels belonging to the Port of Calcutta, be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

Sections I and II were agreed to.

On Section III being read—

THE ADVOCATE-GENERAL said that he wished to introduce a few amendments, in order to assimilate the Bill more to the Merchant Shipping Act. The effect of these amendments generally would be to provide that the survey should take place as soon as it reasonably could after the arrival of a steamer in port, and that it should not interfere with the loading or service of the ship,—to point out the duty of the Surveyor,—and to compel Masters and owners not only to afford every reasonable facility for the survey, but to afford all the necessary information they might be in possession of. The alterations he wished to make in no degree affected the general principle of the Bill.

Several clauses giving effect to the objects enunciated by the Advocate-General were added to the Section which was then agreed to.

The remaining Sections, with some amendments, none of them altering the scope of the Bill as settled by the Select Committee, were agreed to.

RECOVERY OF RENTS.

MR. LUSHINGTON moved that the Report of the Select Committee on the Bill to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal) be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

On Section I being read—

BABOO RAMA PERSAUD ROY begged to move that the consideration of the Bill be postponed, at any rate till the 19th instant. His reasons for moving the postponement were, first, that he did not think that it would be in accordance with the rules to take the Bill into consideration that day; and, secondly, he did not think that it ought to be done in justice to the public at large, who were in no condition at present to express their opinion on the subject. Honorable Members would find, on referring to the rules, that Rule 15 laid down the procedure with reference to the taking the clauses of a Bill into consideration with a view to their settlement. It provided that the Reports of Select Committees should be sent to the Secretary, and that copies should be furnished to every Member of Council, and also that a clear week should elapse after Members had been furnished with copies before the Bill could be taken into consideration by the Council. Now he did not think, in the present case, that the spirit of that order had been complied with. He himself found that a copy of the Report of the Committee and of the Bill as amended by them had been left at his house last Saturday evening, but he had not in fact seen them till the Monday morning. He admitted, so far as he himself personally was concerned, that he had had sufficient time, so far as the strict compliance with the terms of Rule 15 went, to read up the Report of the Select Committee. But when in that Report he found the expression "The Bill as it now stands is very different from the Bill read in Council," he did not think it fair to the public at large that the Bill should be taken into consideration that day. It was true that it was not imperative to publish the Report of the Select Committee, but it might be published by order of the President, and in this case His Honor had thought fit to have it published. That publication, however, he believed took place only on Wednesday last, and he did not think that the Gazette could have reached many of the districts of Bengal even at that moment. There had been really no time to ascertain the public feeling with regard to what, from the language of the report, he might almost call the new Bill now presented by the Select Committee. At present the proposed alterations were by no means generally known. It was only yesterday that a petition from the British Indian Association was placed in his hands, and he had scarcely had time even to read it over. Then he had never had an opportunity

of seeing some of the important papers referred to in the last paragraph of the Report of the Select Committee. He did not think that those papers had been published, and he looked upon their publication as being absolutely necessary. There was another point to which he wished to call the attention of the President and the Council. It had always been the practice of the former Council to publish Bills, whether as they originally stood, or as revised in the Select Committee, in the Bengali Gazette, in order that the native population might know how they stood with regard to Bills largely affecting their interest; and this course should have been followed in the present instance. It was true that in Council they could discuss the matter in English, but the majority of the native population had no idea how their interests might be affected by this Bill. He thought it only just and fair to the natives, that they should have every facility for discussing a measure of so much importance to them. He had for these reasons intended to move the postponement of the consideration of the Report to some Saturday after the present month, but as the Honorable President was likely to leave before the expiration of the month, and as he had taken a leading part in the original discussion in the Bill, he would content himself by moving that the settlement of the clauses be postponed till Saturday, the 19th instant.

THE PRESIDENT said, that before putting the original question, or the amendment, to the Council, he wished to refer to the point of order raised by the Honorable Member. He understood that a printed copy of the Report of the Committee had been delivered at the Honorable Member's house on Saturday last. [*Baboo Rama Persaud Roy*,—Yes, on Saturday evening.] Well, on Saturday evening. In that case the requirements of the rule had been fulfilled, and therefore the question became one to be disposed of by the Council, for whom it was to determine whether the clauses of the Bill should be taken into consideration then or on Saturday next. On that subject he would offer only one remark. The motion before the Council was not that the Bill do pass, but only that its clauses be taken into consideration, with a view to their settlement. One Honorable Member had, he knew, a very important amendment to propose, and it would be as well that the public should have that amendment placed before them. The Bill could not be passed till next Saturday, and time would thus be allowed for that publication, of which the Honorable Member was so desirous. If the clauses of the Bill were taken into consideration now, the Bill would be published in next Wednesday's Government Gazette in its amended form.

BABOO RAMA PERSAUD ROY could not consent to withdraw his amendment.

MR. PETERSON suggested that the most convenient course to adopt would be for the Honorable Member to move that the Bill be re-published and taken into consideration at such time as the Council might order.

THE ADVOCATE-GENERAL entertained some doubts as to whether, according to the Rules, a re-publication of the Bill could be ordered before the settlement of the clauses.

BABOO RAMA PERSAUD ROY wished to know if the Bill had been printed in the Bengali Gazette. From the little the ryots appeared to know about it, he should doubt if it had.

THE PRESIDENT said that the Rule was that Bills should be printed in the Bengali Gazette, and in the absence of any proof to the contrary, it was to be presumed that the present Bill had been published in the usual manner.

MR. MAITLAND thought that every possible facility ought to be given to the public to make themselves thoroughly acquainted with the measure, and in the present case he thought that the time was rather short. There were, however, circumstances connected with this matter which rendered speedy legislation necessary, and he thought that the best course to pursue would be to go through the clauses that day, and then to have the Bill reprinted and re-

considered on a future occasion. It was most desirable, he thought, that their proceedings should be printed in the Vernacular Gazette of next week.

The amendment was then negatived.

Sections I to IV were agreed to.

Section V was as follows:—

"The Collector shall receive such deposit on the application of the ryot, or his agent, made in writing *upon paper bearing a stamp of such value as would be necessary on the institution of a suit for arrears of rent under section XXXVII of Act X of* 1859, *for an amount equal to that which it is intended to deposit*, and on the ryot, or his agent, making a declaration in the form, or as nearly as circumstances will admit, in the form, set forth in the Schedule (A) hereto annexed; and the Collector shall give a receipt for the same. Upon receiving the money so deposited, the Collector shall issue a notice to the person to whose credit it has been deposited in the form set forth in the Schedule (B) hereto annexed, and such notice shall be served either upon the person to whom it is addressed, or upon his naib, gomashta, or other agent, and in the absence of any such agent, it shall be served by sticking up a copy of the same in the office of the Collector, and another copy in the Mal Kutcherry for the receipt of rents, or other place where the rents are usually paid for the lands in respect of which the money has been deposited. If the person to whom such notice is issued, or his duly authorised agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him."

On the Section being read—

BABOO RAMA PERSAUD ROY said that under this Section the stamp duty would be one-fourth of the duty on an ordinary civil suit. He could not see why the stamp should be more than the ordinary stamp of 8 annas required for all miscellaneous applications, more particularly as he failed to see in the Bill any provision for the recovery of the amount of the stamp from the landlord. He therefore moved the omission of the words printed in italics.

MR. LUSHINGTON said that the question had been fully considered in the Select Committee, and the arrangement proposed had been considered the fairest. In some cases the deposit might be, and probably in many cases it would be so small, that 8 annas would be more than the amount of stamp duty payable under the Section as it now stood.

MR. PETERSON said that the Section was virtually in relief of the ryot, because, in point of fact, it enabled him to institute a suit to have his rights determined, not only as regarded the present moment, but in respect to all prior claims. As the ryot under this Section had all the benefit of a suit, there was no hardship if he had to pay accordingly.

BABOO PROSONNO COOMAR TAGORE and Mr. Maitland both opposed the amendment, which, after some further conversation, was negatived on the following division:—

Ayes 3.	*Noes* 7.
Moulvy Abdool Luteef.	Baboo Prosonno Coomar Tagore.
Baboo Rama Persaud Roy.	Mr. Peterson.
The President.	Mr. Maitland.
	Mr. Bullen.
	Mr. Lushington.
	Mr. Fergusson.
	The Advocate-General.

On the Motion of the PRESIDENT it was agreed to introduce words providing that notices issued under Section V should be served by the Collector without payment of any fee by any of the parties.

BABOO PROSONNO COOMAR TAGORE moved the introduction of words making it necessary that the notice should be served *on the agent usually in the habit of receiving rent from the ryot*, instead of on *any* agent. But the Motion was negatived on the following division:—

Ayes 3.	*Noes.*
Baboo Prosonno Coomar Tagore.	Mr. Peterson.
Moulvy Abdool Luteef	Mr. Maitland.
Baboo Rama Persaud Roy.	Mr. Bullen.
	Mr Lushington.
	Mr. Fergusson.
	The Advocate-General.
	The President.

Section VI being read—

BABOO PROSONNO COOMAR TAGORE moved that the words "one year" be substituted for "six months." After a conversation, in which Baboo Rama Persaud Roy and

Mr. Peterson took part, the Motion was negatived.

Sections VII, VIII, and IX, stood without amendment.

After a lengthened debate, in which nearly all the Members present took part, various alterations were made in Section X, which eventually was agreed to in the following amended shape:—

"If the proprietor of an estate, or other person entitled to receive the rents of an estate, is unable to measure the same or any part thereof by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may petition the Collector in respect of the lands which he cannot measure as aforesaid, and the Collector thereupon and on the necessary costs being deposited with him by the applicant, shall proceed to measure the land and to ascertain and record the names of the persons in occupation of the same, or, on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine, and record the tenures and under tenures, the rates of rent payable in respect of such lands, and the persons by whom respectively the rents are payable. The provisions of Section LXVII of Act X of 1859 shall apply to any proceeding of the Collector instituted under this Section. If after due enquiry the Collector shall be unable to ascertain who are the persons having tenures or under tenures in such lands or any part thereof, he may declare the same to have lapsed to the party on whose petition he has made the enquiry. If any person, within fifteen days after a Collector shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms or conditions as he may think proper, alter or rescind his declaration according to the justice of the case. Save as aforesaid, the decision of the Collector on all matters enquired into, and determined by him under this or the last preceding Section shall be final, unless the same shall be reversed on appeal therefrom to the Civil Court. Provided that no appeal shall lie against any decision of a Collector under this or the last preceding Section unless such appeal shall be presented within one month after such decision shall have been given."

Section XI was agreed to with an immaterial alteration: and Sections XII to XVIII were agreed to without amendment.

On Section XIX, providing that no appeal shall lie unless the appellant pays into the Court the amount of principal money and costs, being read—

MOULVY ABDOOL LUTEEF said that he considered the Section quite unnecessary and highly objectionable. Many cases might occur in which it would be extremely inconvenient for the appellant to pay into Court the amount of the money decreed against him with costs, before preferring his appeal. And if in such instances an appeal were disallowed for that reason alone the result would be that the appellant would be deprived of the privilege of getting a hearing in appeal of his case, which might be a very good one.

BABOO RAMA PERSAUD ROY explained that, at present, when a zemindar got a decree, he could at once execute it on giving security, and said that that appeared to him to be a sufficient safeguard.

THE PRESIDENT considered that the Section went further than justice allowed. If a man against whom a decree had been made was solvent, the decree-holder could, under the existing law, immediately realise his money by taking out execution against him, on giving security. If the man against whom the decree had been passed was insolvent, that is to say, really had not the means of satisfying the decree, there still was no reason why he should not be allowed to appeal if he paid all that he could pay. The decree might, in such a case, be utterly ruinous to him, and yet it might be a decree which ought to be, and on appeal would be set aside. He thought the Section should be omitted.

MR. PETERSON spoke in support of the Section, and Mr. Lushington and the Advocate-General against it.

MR. MAITLAND supported the Section, the object of which was to discourage litigation and appeals merely intended to gain time, and keep out of his money the plaintiff who had got a decree. If the appeal was *bonâ fide*, there could be no hardship in the appellant paying the money in, knowing that it would be repaid him if he gained his cause on appeal. It was

quite true that execution might issue pending an appeal, but there was often a great difference between the issue of execution and the realizing the money. The ryot could often make away with, or conceal his property against process of execution, though the money would be readily enough produced by him to pay into Court when he wanted to appeal *bonâ fide*. He quite admitted that, under the operation of the Section, cases of individual hardship might sometimes arise, though rarely. But he believed that great general good would be attained by the proposal of the Select Committee.

The Section was then struck out on the following division:—

Ayes 3.	*Noes* 6.
Baboo Prosono Coomar Tagore.	Moulvy Abdool Lateef
Mr Peterson	Baboo Rama Persaud Roy
Mr. Maitland.	Mr. Lushington.
	Mr Fergusson.
	The Advocate-General.
	The President

The remaining Sections were agreed to without alteration.

On the Motion of Baboo Rama Persaud Roy, a new Section was agreed to, introducing provisions similar to those in the last sentence of Section 119 of Act VIII of 1859

The Preamble and Title of the Bill were last of all agreed to.

ZEMINDARY DAWKS.

MR. FERGUSSON moved that the Report of the Select Committee on the Bill to improve the system of Zemindary Dawks in the Provinces subject to the Government of Bengal, be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

Sections I and II were agreed to.

On Section III being read—

BABOO RAMA PERSAUD ROY said that he considered that this Section entirely changed the principle which had been adopted by the Council when the Bill was originally read, and he saw no reason why that principle should be changed. If property had its advantages, it had its liabilities also, and those liabilities ought to be shared equally by all. The Section, as it now stood, provided that

"It shall be lawful for the Magistrate of every District, or for such other Officer as the Government may from time to time direct, to raise, as hereinafter provided, the monies necessary for the payment of the establishments required for the purpose of efficiently maintaining the Zemindary Dawks within the District, from all Zemindars, Sudder Farmers, and other persons paying revenue direct to Government in respect of lands situated within the District."

Now he did not see why the burden should be placed on those Zemindars only who paid revenue direct to Government Surely, the fact that there might be found some difficulty in the apportionment, was not a sufficient reason for perpetuating what was a manifest injustice, and he conceived that some more equitable way of assessing the tax might have been devised than merely rating it upon the sudder jumma payable to Government. In his opinion, too, it would be desirable to have a Committee with whom the apportionment should rest, in the same manner as was done under the Municipal Act. No one would object to an apportionment made by Members of their own community, for there would probably be no cause for complaint. Several petitions on this subject had already been sent in, and he did not know if some were not yet to come. He objected in the first place to the principle of levying this tax only upon Zemindars who paid revenue direct to Government, and he also objected to the unlimited power which the Section would give to the Magistrate of fixing the maximum sum required. It would be far better to have a Committee in the nature of the Police Committees, who should fix the sum necessary to maintain Zemindary Dwaks, and who should then apportion that sum among all landholders without reference to the fact of paying revenue direct to Government. He would certainly oppose Section III, as

also Sections IV, V, and VI which were intimately connected with it.

BABOO PROSONO COOMAR TAGORE, admitting that there was some force in the Honorable Member's remarks as to imposing the tax for the sake of convenience solely upon Zemindars and persons paying revenue direct to Government, said that the matter had been fully discussed in Committee, and that it had been found quite impossible to adopt any other mode of assessment than that now laid down in the Bill, as there were innumerable difficulties in the way of any other mode. Was it fair and just that the convenience of public officers should over-ride a principle? And as to having a Committee with the Magistrate as President, such a course would be of no real benefit, and would probably merely be a useless obstruction.

MR. PETERSON denied that the Section as recommended by the Committee was any departure from the principle laid down by the Council on the first reading of the Bill. In his short experience of legislation, he had already found out that in one respect it was very like flogging. Hit high or hit low it was impossible to please all parties. He should be much obliged to any Honorable Member who could show him how it could be done. He could not but admire the ingenuity with which the Honorable Member had changed his tactics since the Bill was referred to the Select Committee. He now dealt with Section III by itself, instead of taking it in connection with the one succeeding it. When read together, the two involved the principle almost in its entirety which had been recognized by the Council on the reading of the Bill. Regulation XX, 1817, distinctly threw the burden of maintaining dawks upon those zemindars through whose lands the dawks passed, and, under that Regulation, by changing the line of roads or making new roads, every zemindar could be made liable. The present Act proposed no new taxation, but only that an existing liability to do service in kind should be converted to a money payment, and that the liability should be evenly distributed; nor did it give any real additional power to the Magistrate. With reference to petitions, he could only say that he held one in his hand from the Rajah of Burdwan. It appeared to him to contain objections *de omnibus rebus et quibusdam aliis*, and to be based upon the most thorough disregard of the principle of Regulation XX, 1817. It showed upon its surface more of the ingenuity of the Sudder Court Pleaders whose signatures it bore, than of the real sentiments of the Maharajah himself. He would only add that the rejection of this Section would be tantamount to the rejection of the Bill.

THE ADVOCATE-GENERAL thought that the most advisable course to pursue would be to postpone the consideration of the Clauses till the next meeting. He had heard quite enough since the discussion commenced, to satisfy him that it was a very serious question at any rate, whether the alterations made by the Committee in the course of their labours were, or were not, substantially alterations in the Bill as read in Council. It was also a very serious question whether the Bill was one which, as presented now to them, ought to be passed into law. He did not wish to express any opinion one way or the other, but considering the importance of the subject, and the short time they had had the Report before them, would beg to move that the further consideration of the Clauses be postponed

The motion was put and agreed to.

The Council then adjourned.

Saturday, April 19, 1862.

PRESENT.

His Honor the Lieutenant-Governor of Bengal *Presiding.*

T. H. Cowie, Esq., *Advocate-General*,
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
W. S. Seton-Karr, Esq.,
Baboo Rama Persaud Roy.
Moulvy Abdool Luteef,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
and
Baboo Prosono Coomar Tagore.

MR. SETON-KARR took the Oaths and his seat as a Member of the Council.

SURVEY OF STEAMERS IN THE PORT OF CALCUTTA.

MR. FERGUSSON brought forward the Bill to provide for the periodical Survey of Steam Vessels in the Port of Calcutta, and moved that it be passed.

The Motion was agreed to, after a slight amendment in Section IX had been introduced.

RECOVERY OF RENTS.

MR. LUSHINGTON brought forward the Bill to amend Act X of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal), and moved that it be passed.

A number of verbal amendments were introduced into some of the Clauses of the Bill. The last sentence of Section XIV, and the whole of Section XX were struck out, on the motion of *Baboo Rama Persaud Roy*

The Bill was then passed.

ZEMINDARY DAWKS

MR. FERGUSSON, who had a notice on the paper to move that the Report of the Select Committee on the Bill to improve the system of Zemindary Dawks in the Provinces subject to the Government of Bengal be further considered in order to the settlement of the Clauses of the Bill, said that, as it was Mail-day, he would, for the convenience of certain Honorable Members, postpone his motion till the next Meeting.

The Council then adjourned.

Saturday, April 26, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal,

Presiding

T. H Cowie, Esq., *Advocate-General*,
H. D. H. Fergusson, Esq.,
E. H. Lushington, Esq.,
W. S Seton-Karr, Esq.,
Baboo Rama Persaud Roy,
Moulvy Abdool Luteef, Khan Bahadoor,
J. N. Bullen, Esq.,
W. Maitland, Esq.,
A. T. T. Peterson, Esq.,
and
Baboo Prosono Coomar Tagore.

THE PRESIDENT said:—Before proceeding with the business of the day, I wish to express, on the first public opportunity, the gratification it gives me to feel that, in undertaking the arduous and responsible trust which has been reposed in me by Her Majesty's Viceroy, I shall be assisted in all the most important matters with which I am called upon to deal by a Council composed of the able and experienced men by whom I am surrounded. With such assistance I may venture boldly on a task which might otherwise have seemed a hopless one: and though the legal functions of the Council are limited to the making of Laws and Regulations, I shall always be ready to receive with attention and respect the suggestions of every individual Member of it, and shall not hesitate to seek from you at all times, whether in Session or out of Session, what I am certain will be cordially given, unreserved information and advice on any subject which concerns the welfare of the millions for whom we are appointed to legislate, and the various and important interests committed to my charge. It will be my earnest endeavour that all measures brought before the Council on the part of the Government are prepared with careful regard to the general good of all classes of Her Majesty's subjects: and if such measures be found well calculated to attain that object, I rely on the Council for an independent and generous support.

ZEMINDARY DAWKS.

MR. FERGUSSON moved the further consideration by the Council of the Clauses of the Bill to improve the system of Zemindary Dawks in the Provinces subject to the Government of Bengal. On a former occasion the first and second Sections had been agreed to by the Council, and on that occasion an Honorable Member had raised certain objections to the third Section upon the ground, as he stated, that it had entirely changed the principle which had been adopted by the Council when the Bill was originally read.

Now that unquestionably was not the case. It would be observed from the third and fourth Sections that the principle recommended by the Select Committee was that the money, necessary for the payment of the establishment required for the purpose of efficiently maintaining Zemindary Dawks, should be raised from all the Zemindars in the district rateably, according to the sudder jumma payable to the Government by each Zemindar, and that was precisely the principle of the Bill read in Council, as had been shown by the Honorable Member on his right (*Mr. Peterson*). In order to place the matter beyond the possibility of a doubt, he might mention that the Bill which had been read and adopted by the Council had been originally introduced into the late Legislative Council by an Honorable gentleman (*Mr Seton-Karr*), whom he was glad to see present among them. In his Statement of Objects and Reasons as well as in the speech with which he introduced the Bill, that Honorable Member had indicated very clearly the principle on which the measure was founded. He stated that

"the object of the Bill is to compel all Zemindars to commute their liability of service for a money payment The Magistrate of each district or other officer appointed by Government will be empowered to fix a lump sum as the estimated expense for conveying all the Thannah Dawks to and fro in his District, and he will then apportion the amount to be paid rateably by each Zemindar or Farmer of land. To this end he will be enabled to appoint a Committee composed of experienced Officials and of Landholders, who shall determine the quotas to be contributed by each Landholder in proportion to his sudder jumma."

That was precisely the principle of assessment now recommended by the Select Committee, and which had been adopted by the Council at the reading of the Bill. He might further state that the principle had also been recommended by the British Indian Association who were understood to represent the interests of the Native Zemindars. The Secretary of that Association in a letter, dated 5th April, said—

"The money payments, the Committee think, should be levied according to the estimated value of the service at present exacted in each District, to be collected rateably from all landholders, the extent of individual liability being determined according to the amount of the sudder jumma which each Zemindar has to pay for his Estate or Estates lying in each District"

This clearly proved that the principle of assessment now objected to on the part of the Zemindars, had been recommended by the British Indian Association as the best for all parties, and this was also the principle which had been adopted by the Council upon the reading of the Bill. It was no doubt true, however, that the Select Committee had not recommended the appointment of local Committees to determine and apportion the amount payable by each individual. The subject had been taken into consideration by the Committee, and they thought that, as the Council had adopted the principle that every Zemindar should pay according to his sudder jumma, such local Committees would be of very little use, inasmuch as the sudder jumma of each Zemindar could at once be ascertained by an inspection of the Collector's books, and under those circumstances it seemed unnecessary to call together a number of country gentlemen and form them into a Committee in order to work out a very simple sum in Arithmetic. An Honorable and learned Member had also said that he could not see why the burden of maintaining Police Dawks could be borne solely by those persons who paid revenue direct to Government, and, as he understood him, he had suggested that the assessment should be levied upon all Talookdars and upon sub-tenants generally. On what principle it would be possible thus to apportion the assessment did not appear. There were no registers or lists of the vast number of lackeraj holdings and under-tenures which existed in almost every Zemindary in Bengal, and any attempt to prepare such lists would have the

Mr. Fergusson.

effect of raising numerous questions regarding right and title, so that there must be extreme difficulty and delay in completing the lists. A similar suggestion to that of the Honorable Member had been made to the Select Committee, who after full enquiry and consideration abandoned it as utterly impracticable, and altogether opposed to the principle already adopted by the Council. In making the suggestion the Honorable Member opposite appeared to have overlooked the very important fact, that under the old laws of 1793 and 1817 the liability to maintain these Zemindary Dawks rested not on any under-tenant, but on the Zemindar of the parent estate. However many sub-tenures he might create, still the Zemindar had in practice always remained solely and directly liable in this respect. He believed that the Zemindars generally, admitting their liability, had calculated its cost and included the sum in the engagements entered into with their sub-tenants, in which case the Zemindars would be protected by the 11th Section of the Bill.

THE ADVOCATE-GENERAL wished to say a few words upon the 3rd Section which had been under discussion at a previous Meeting of the Council. He had been anticipated in a good many observations which he had wished to make by the Honorable Member who had spoken last. But, inasmuch as upon the last occasion he had intimated that he considered that at any rate the question was of some difficulty and importance, and one in regard to which it was desirable that time should be given for further consideration, he thought it right to occupy the attention of the Council for a very few moments in stating the conclusions at which he had arrived in regard to the difficulty which had suggested itself to his mind. On the last occasion that the Bill was under discussion, it had been submitted by the Honorable Member opposite (so far at least as he understood his argument) that the provision of the Bill limiting the substitution of pecuniary payment for service in kind to these Zemindars paying revenue direct to Government was inequitable in itself, and was the introduction of a new principle. It was in reference to the difficulty thus stated that he had thought it desirable that time should be given for further consideration. Having since had an opportunity of examining all the Regulations which appeared to him to bear upon the subject, he was now perfectly satisfied that the limitation of the provisions of the Bill to Zemindars paying revenue direct to Government was in no way introductory of any new principle. On the contrary, except that the Bill proposed to substitute a pecuniary charge for the service at present required, the law remained precisely in the same state as it was in before. The same class, and the same class only, would have to bear the charge, who, under the existing law, were liable to service. He would not take up the time of the Council by any legal discussion of previous Regulations, but would merely state generally the conclusions at which he had arrived. It was quite clear that the object and scope of the present Bill was to substitute a money payment for service, that it did not introduce any new burden, but merely altered the form and nature of an existing one. The Bill, as it was originally brought in, treated zemindars and farmers of land as the persons liable to be charged. Now it would be as well, in considering this matter, to go back and endeavour to ascertain what sense was attached to the words "landholders, proprietors, and farmers of land" in the old legislation upon the subject. He himself had done so, and had found that they had been used with a singular uniformity as applying to Zemindars and Proprietors paying revenue direct to Government, and it was upon that class of persons that under the Regulations of 1793 and 1817 the liability of maintaining these dawks had been cast. The words used in the present Bill implied neither more nor less than similar words in previous Regulations. As for there being anything inequitable in the principle of limiting the charge in the manner pro-

posed, he thought that a tolerably strong answer could be found to that objection in the fact that, so far as anything had come before the public, it had never been objected to. No suggestion had ever been made, or even thought of, for extending the existing liability of Zemindars to holders of undertenures: and this, he thought, was in itself a sufficient answer to the objection of the Honorable Member. He did not think that on the occasion of the discussion of a Bill of this nature, which did not profess to introduce any substantive new law, but only to regulate and modify the liability which the existing law imposed, it was desirable to enter upon the general question of the equity of the original legislation. It was sufficient to say that the liability had existed for seventy years, and it appeared highly desirable now, without altering the principle of it, to modify its form.

MR. SETON-KARR said that, as in the old Council the duty of introducing a similar measure had devolved upon him, he wished to offer a few observations upon the present occasion, and to bring to the notice of the Council some of the objections which were urged against the measure, as it was desirable that such should receive due attention. The first objection was that it imposed a new Tax. Now he could put no such construction upon the Bill. He would, in point of fact, go further, and express a strong opinion that the old law in no way limited the burden of maintaining Zemindary Dawks to the Zemindars through whose lands the dawks might happen to pass. In the words of the law, landed proprietors, farmers of land, and local managers were to name pykes or dawk-runners, while Magistrates alone had the power of establishing the dawks. In practice it had been usual, in most districts, to limit the liability to those Zemindars through whose estates the dawks ran, but this practice had crept in, and he need hardly say that a burden rateably imposed on all the Zemindars of a district would be much less felt than the existing liability, and the present Bill would in reality supply the defect, and complete the intention of the old law of 1817.

It had been stated in some Petitions that the liability to postal dawks had increased, owing to the recent establishment of Sub-Divisions and the increase of functionaries; but even if that were so, the liability had always existed, and no one could doubt the fact that, even if there had been such an increase, there had been more than a proportionate one in the wealth, influence, and ability of the Zemindars to meet the burden. He did not therefore think that this formed any sound objection to the Bill. As regarded the appointment of local Committees, as had been originally proposed in the Bill of which he had had charge, the Committee had arrived at the conclusion that they were unnecessary, and certainly when the assessment was to be in proportion to the Sudder Jumma, he could not quarrel with that provision. It had been suggested further that a power of appeal should be allowed when the amount was under forty Rupees. Now, in his opinion, in legislation we seemed to have reached that stage when it was thought expedient in small matters to give some final jurisdiction; and considering the incidence of the tax on such a body of men as the Zemindars of Bengal, it appeared to him to be wholly unnecessary that in so small a matter two tribunals should be referred to. It had been further alleged that the Bill militated against the provisions of the Permanent Settlement. He would be the last man to advocate any measure which would seem counter to the admirable scheme of Lord Cornwallis; but he had always remarked that, if supported by no better arguments than those contained in the late petitions, an appeal to the Permanent Settlement was the last subterfuge of convicted liability. Moreover while some authorities had recommended that fines under this Bill should be levied by the sale of estates like arrears of revenue, such a provision had been carefully excluded from the original Bill; and

The Advocate-General.

even a provision for a fine commutable to one month's imprisonment in the civil jail, introduced into that Bill, had been struck out from the one now before the Council. He had further remarked a statement in some of the petitions which had been presented on this subject, to the effect that there would be no public advantage in having these Zemindary Dawks established concurrently with Government dawks. Well, there was some deal of truth in this objection, but it appeared to him that it fell entirely within the province of the Lieutenant-Governor, as head of the executive, to discontinue such dawks where he considered them superfluous and unnecessary. Having thus referred to some of the objections which might be urged against the measure, he would only add that, subject to some verbal amendments, he entirely approved of the Bill

BABOO RAMA PERSAUD ROY said that, not being in very good health, he had not intended to take any part in the discussion, but after the observations of the Honorable Member he felt it necessary that he should offer some explanation and set himself right with the Council as to the grounds upon which he opposed the 3rd Section of the Bill. As to the Bill itself militating against the permanent settlement, and the other objections to it which had been commented on by the Honorable Member, he had nothing whatever to say. The liability of the landholders to maintain dawks having been established in 1793, and having existed ever since, it would be useless to say anything upon the expediency or justice of the original legislation His objections to Section III were that, in the first place, no limit was given to the discretion of the Magistrate, and secondly, that it did not lay the burden upon every landed proprietor. The principle which he had understood the Council to adopt was that, instead of the charge being borne by those landowners through whose land the dawks passed, it should be equitably apportioned among the landholders of the district, whereas the Bill, as it at present stood, placed the charge on those only who paid revenue direct to Government. The learned Advocate-General had said that in former Acts, wherever the words "landholder or proprietor of land" were used, they applied only to those persons who paid revenue direct to Government. Now, with the utmost deference to the superior knowledge and experience of the Honorable Gentleman, he felt bound to dissent from that opinion. On the contrary he was prepared to show that where those words occurred they were used in a general sense. The fact was that it was only where the expression "proprietor of estate" was used that the application was only to those landholders who paid revenue direct to Government. That being so, it appeared to him to be a departure from the principle of previous legislation to limit the burden to those paying revenue direct to Government. In the Regulation of 1817 the expression used was "landed proprietors, farmers of the land, and local managers." Now, could any man think that those words applied only to persons who paid revenue direct to Government, and certainly the object of that Regulation was not to make any change in the system introduced in 1793. The principle, so far as he understood it, which the Council had adopted on the reading of the Bill, was that the charge, instead of being levied only on those landholders through whose lands the dawk might pass, should be rateably apportioned among all proprietors of land throughout the district, and if that were so on what principle was it now proposed to limit the burden to those who paid revenue direct to Government? Perhaps it was because it would be more convenient. Or was it because the Council could devise no means of doing real justice? Then again, under the present Bill, a Magistrate would not be bound to send letters by a public dawk even where one was available; and if that was not an innovation upon the old system which limited the use of Zemindary Dawks to police purposes, he did not know what was. His great objection was that there was no limit to the discretion of the Magis-

trate, and he certainly thought that if the Magistrates were not obliged to take advantage of the public dawk when available, he would naturally enough look to his own convenience and use the Zemindary Dawks, the result being unnecessary taxation of the zemindars.

MR PETERSON rose to order. The Honorable Member professed to be simply speaking in explanation, but he was going into entirely new matter. If the Honorable Member re-opened the whole question in a second speech, he also should avail himself of the same privilege.

THE PRESIDENT said that he laboured under the disadvantage of not having been present at the last meeting, but as the discussion he believed had been originally raised by the Honorable Member, he thought that he was not out of order in replying to observations which had been made in the course of the debate

BABOO RAMA PERSAUD ROY continued:—Surely, the Council were not prepared to give power to a Magistrate to levy taxation without any limit or any check upon his discretion. Looking at the Report of the Select Committee, he could not avoid arriving at the conclusion that they had agreed to this limitation of the charge to landholders paying revenue direct to Government, simply because they could not devise any other means of levying the impost. He would, however, put it to the Council whether they were prepared to commit an injustice, simply because they could not find out how to be just. An Honorable Gentleman opposite had referred to the difficulty of assessing lakheraj estates and other under-tenures. But he could say that he did not see the slightest difficulty in the matter. Persons holding such tenures were at present obliged to contribute for other police purposes, and if so, where was the difficulty? He could not see why, through the darogah, a Magistrate should not get a complete list of all the villages and of the proprietors therein for the time being, whatever might be the nature of their tenures. Why should not Committees be formed for carrying out the purposes of the Act? If in the different districts they were to appoint a Committee of four, namely, two European and two native gentlemen, to sit with the Magistrate and assess those persons who appeared on the list, there might probably be individual cases of injustice, for that could not be avoided, but on the whole, substantial justice would be done, and no real difficulty would be felt. These were his objections to Section III, and he would not attempt to go into the question, as to whether the Bill militated against the permanent settlement or not, or any other of the objections which had been referred to by the Honorable Member. It had been imputed to him that he had changed his tactics, and was now indirectly opposing the principle which the Council had adopted. That he utterly denied. The question was not one of sympathy, it was one of equity and justice, and as the Council had adopted the principle that all landholders should share the burden, why should the Council now limit it to those only who paid revenue direct to Government? As regarded taking the sudder jumma as the standard for assessment, he imagined that that had been proposed because it was the easiest plan. But he did not think that any such ground as that ought to be sufficient to induce that Council to legislate.

The motion for the further consideration of the clauses of the Bill was then put and agreed to.

On Section III being read—

BABOO PROSONO COOMAR TAGORE said, that he had been anticipated in many of the observations which he had intended to make by the Honorable Gentleman who spoke last. He admitted the difficulty of levying an assessment upon all under-tenures, but at the same time he could not give his assent to the principle of Section III as it stood now.

MR. LUSHINGTON thought that in the discussion of the subject it was very immaterial what was the correct interpretation of the words used in the original Regulations. What they had practically to consider was how the Re-

gulation of 1817 had been carried out. Had any Putneedar or person holding any under-tenure ever been called upon to maintain a dawk? Certainly not, the maintenance of these dawks had been confined solely to the Zemindars That had hitherto been the rule, and he thought it a good rule. It would be excessively difficult, if not impossible, to apportion a rate upon all persons holding tenures. One Honorable Member had expressed an opinion that it would be very easy, while another considered it would be very difficult Any one who had any practical knowledge of the Mofussil knew that in some villages there were frequently from 20 to 30 Lakherajdars holding one, two, or three beegahs each; and what apportionment or rate could possibly be fixed upon them? It would take a Magistrate a very long time to determine upon the sums to be paid by each, and when he had succeeded, it would do him very little good, so small would be the amount payable under this Act in such cases. He thought that the Section should be allowed to stand as it was, and that the charge should be limited to Zemindars and sudder farmers who paid revenue direct to Government.

MR PETERSON thought that the Honorable Member who had spoken last but one, had shown considerable inconsistency, inasmuch as, if his recollection served him rightly, he had, when Section III was first under discussion a fortnight previously, expressed an opinion in favor of the very principle which he now opposed. The words to which reference had been made, had over and over again been construed as applying only to persons paying revenue direct to Government The question, however, came to this—Who had borne the burden ever since 1817? A Zemindar who had the misfortune to possess property over which a dawk passed had hitherto been obliged to pay in kind, and now he was called upon to pay in coin. That being so, it surely was only fair that the tax should extend to the whole body, and he did not think that any of them had a right to complain. If the proposal of the Honorable and learned Member were carried out, it would virtually be to transfer an existing burden to persons at present not taxed. Zemindars should learn, that if land had its *commodum* it had also its *onus*. The principle could not be too well known that local charges should be met by local taxation, and he hoped to see that principle more fully carried out. He was surprised at the opposition which the Bill appeared to meet with at the hands of the Zemindars for it really was a measure for their relief. He was glad to see that the British Indian Association had turned their attention to the subject, for it would be idle for Honorable Members to shut their eyes to the intimate knowledge of landed tenures possessed by the Members of that Association. For his own part he would wish to see a great increase in Bills of this description, for they tended to place the Zemindar in his proper position, namely, that of bearing his share in the burdens of the State, in return for the protection which he received from it. He had himself been in favor of extending the charge to all landholders. but having been satisfied, from the discussion which took place in Committee upon that subject, that it would be impossible to carry out that view, he had therefore abandoned it.

MOULVY ABDOOL LUTEEF fully agreed with the Honorable Member, who spoke the last but one, that it would be utterly impossible for the Magistrate to find out all the proprietors of various denominations in each village. Should he even attempt to find them out, it would prove a source of very great annoyance and oppression to people of all classes throughout the district.

MR. MAITLAND did not like to give a silent vote upon the subject, because the question had excited a good deal of attention. In stating his intention to support the Section, he could only repeat a good deal of what had been already said. In former times the maintenance of these dawks had fallen upon a parti-

ocular class of landholders. The present Bill made no alteration in that respect, for the same class as before would continue to bear the burden. From the general improvement of the country, it could not be doubted that the Zemindars could well afford to pay this tax. Approving as he did of the principle of a rateable assessment in the manner proposed, he should support the Section.

THE PRESIDENT entirely approved of the Section as it stood, upon the understanding that a Section would be introduced into the Bill, providing that Zemindary Dawks should not be established or maintained where Government Dawks existed. One Honorable Member had contended that the liability in respect of these Dawks which was recognised in the Regulations of 1793, was a liability not confined to those who paid revenue direct to Government, but was shared by lakherajdars and under-tenants. But if those Regulations were referred to, it would be found that, where lakherajdars and others not paying revenue direct to Government were meant, they were expressly named. Regulation I, 1793, had reference only to Zemindars, Talookdars, and other actual *proprietors of land paying revenue to Government*. And so it was throughout the whole Code of 1793,—it was those who paid Government revenue, who were referred to as proprietors or farmers of lands, unless when it was expressly indicated that others were spoken of. The President quoted Sections of Regulation I, 1793, and of Regulation VIII of the same year, and observed that he considered that one great merit of the Bill now under discussion was that it sought to impose no new burden upon the landholders, but merely to modify and adjust an existing one. It was his intention to give his cordial support to the Section.

The question was then put, and the Section agreed to.

BABOO PROSONO COOMAR TAGORE moved the introduction of a Section, providing that dawks established under the Act should not be used for other than Police purposes.

MR. SETON-KARR said, that he should oppose this amendment because the number of letters other than Police letters were comparatively few, because the matter had formed no subject of complaint out of doors previously, and because, to limit the Act positively in the terms proposed, might cause an inconvenience to the Zemindars themselves who, in such a case, would be deprived of the facility of sending and receiving their own letters by their own Dawks.

MOULVY ABDOOL LUTEEF opposed the introduction of the Section, on the ground that, instead of doing good to any body, it was likely greatly to inconvenience the general community living in the Mofussil. It was according to a Rule of the Government Post Office, that private Dawk letters received at the Sudder Station of a District or of a Sub-Division, addressed to individuals living in the interior, were made over to the nearest Thannah by the Post Master. The Officer in charge of that Thannah made over to the Chowkeedars under him, such of the letters as were addressed to persons living within their respective jurisdictions, and he forwarded others by the Zemindary Dawk to other Thannahs for distribution in a similar manner, amongst addressees residing within those Thannahs. It would thus be seen that, if this proposed Section were adopted, a large community living in the interior of the Districts would be put to inconvenience, whilst it would do substantial good to nobody.

The Motion was also opposed by the Advocate-General and Mr. Fergusson, and was ultimately negatived without a division.

THE ADVOCATE-GENERAL moved the introduction of a Section, providing that no Zemindary Dawk should be maintained where a Government Post existed for the time being.

The Section was agreed to.

Section IV provided the mode of assessment.

MR. SETON-KARR said that he should move two slight amendments in Section IV. The first was the introduction of the words "subject to the revision and approval of the Commissioner of the division" after the word "fix" in line 5, and the substitution of the words "within thirty days" for the words "within a reasonable time" in line 8. As regards the first amendment he observed that, while an appeal had been granted in cases of individual assessments above forty Rupees, from the Magistrate to the Commissioner, there was no power of redress or revision in cases of assessment in the lump. Magistrates might be hasty, while the Commissioner was generally a man of experience, temper, and calmness, and well fitted to revise or approve the general taxation. As regards the second amendment, the words "reasonable time" were, if they could be avoided, no words for a law, and as the law had to be administered, at the very least, by thirty functionaries in these Provinces, he thought it expedient to fix one time for all.

After some conversation Mr Seton-Karr asked permission to withdraw his second amendment, one being substituted for it by the Advocate-General.

The amendments of Mr Seton-Karr and the Advocate-General were severally agreed to, and the Section as amended was then passed.

The remaining Sections of the Bill as well as the Preamble and Title were then passed.

MR. FERGUSSON gave notice that at the next Meeting he should move that the Bill do pass.

RESUMPTION OF THE REVENUE OF LANDS, &c.

MR. FERGUSSON moved that the Report of the Select Committee on the Bill to repeal Section XXX of Regulation II, 1819 (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made), be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was carried, and the Bill was agreed to without amendment.

On the Motion of *Mr. Fergusson*, the Bill was then passed.

CONSTRUCTION OF LINES OF COMMUNICATION.

MR. FERGUSSON moved that the Bill to promote the construction of lines of communication as feeders to Railways, High Roads, Navigable Rivers, and Canals, be read in Council.

He said a similar Bill had been introduced into the late Legislative Council by an Honorable Member present, and he would therefore leave it to him to explain it in detail.

MR. SETON-KARR said: Sir, I shall not occupy the time of the Council any longer than is absolutely necessary to explain the main principles and some of the chief details of this Bill. When the duty devolved on me, last year, of introducing the Bill in its original shape to the former Legislative Council, it then bore the title of "A Bill to provide for the construction, by companies and by private persons, of Branch Railways, iron tramroads, common roads, or canals, as feeders to public Railways." The Bill in its amended shape is one to promote, by the same persons, "the construction of lines of communication as feeders," not to Railways only, but to "high roads, navigable rivers, and canals." When the Bill was first published in its original shape it received suggestions and criticisms from various quarters, but so far from eliciting any absolute disapproval of its main principle, that principle met with some commendation *so far as it then went*. The present Bill, however, is considerably improved, by its extension to all lines of communication which it may be in the wish or power of companies or individuals to construct. The distinction

indeed between the original and the amended Bill is so obvious, that I have only to draw the attention of the Council thereto, without entering into any further details. I venture to think that, as amended, the Bill will provide for a very large class of cases, and may be sufficient to meet the expanding requirements and wants of this country; for, when it is considered that many large bazars, important places in agricultural districts, and centres of commerce or marts of trade, are situated either on the very edge or at no great distance from, a high road or a river; how many more will presently be either pierced by a Railway or connected thereby with other important places: how certain it is that the prime objects of the promoters of any such scheme will, naturally and ordinarily, be to connect their starting point or their focus of enterprise, with some one or other of the great lines of communication, constructed or in process of construction, artificial or natural —it may perhaps be admitted that the Bill in its present shape goes sufficiently far. When it is further considered that the cases which would demand an unreasonable or impossible stretch of ingenuity to bring them within the provisions of the Bill, would be extremely rare, it may then become a question whether, in such cases, it would be desirable to call in public legislation in aid of private enterprise. I mean to say, that it is very easy to conceive cases in which the promoters of such schemes might desire to connect two manufactories or two mines, situated at very few miles from each other, by roads running exclusively through the private estates of others, and it might then be worth consideration whether such schemes should not be left wholly to private contract or bargain, instead of being dependent on the intervention of public authority. I repeat, too, that the rarity of such cases might justify their exclusion; few men would wish to construct lines which ended in a swamp or an uncultivated or uncultivable plain. They would all look to link themselves either with one of the navigable rivers so frequently met with in Bengal, or with one of the high roads or the Railway in Behar. In short, I believe, that the Bill under one or other of its four provisions, would meet the requirements of nine cases out of ten, or even of nineteen out of twenty. But, on the other hand, if this Council, on mature deliberation, should conclude that this Bill demands still further extension in order to provide adequately for the expansive wants of the country; if they should be of opinion that it is desirable to anticipate, by legislation, a further class of cases which may possibly arise, I, for one, by no means pledge myself to oppose its extension towards any such end. On the contrary, I shall be ready to accept such suggestions and amendments as the Members of a Committee or of the whole Council may consider to be worthy of adoption. It has further been suggested to me that the Bill might be improved so as to comprise, not merely works intended to facilitate locomotion, but all works whatever, which, public in their character, may be constructed by private enterprise Such an extension would be, in some measure, a departure from the original scope of the Bill. The Bill was intended only to facilitate intercourse. The suggested extension would not render it necessary to construct any lines of communication at all. For instance, it might be thought desirable to empower individuals to take land for a manufactory, a distillery, a refinery, or even for the construction of one of those great reservoirs on which native beneficence, in past and present generations, has loved to exhaust itself; and here again, should the sense of the Council be in favor of any further development or change, I should be fully prepared to accept their conclusion. I would here observe that a particular Section of the Bill empowers the promoters of such schemes to take up land, not merely for the construction of any line of communication, but for all "necessary buildings, or for any work or purpose immediately connected with the undertaking." Under this provision, a Capitalist might acquire

space sufficient for his manufactory and the proprietor of mines, in the same manner, might have all the land necessary for the working of his mines, as well as for his Railway or road As regards the term "high roads," which has been used in the title of the Bill, I should assume, if asked, that by such a term were meant all roads either constructed or repaired by funds derived from imperial or local resources This would include almost every road existing in this part of the Empire; but if it should be thought imperative, a short Section can be easily added, declaring expressly the exact meaning which the term shall bear

I have thus explained the main principles on which the Bill has been founded. I now proceed to solicit your attention to some of its chief details. Under the first two Sections, companies or private persons wishing to construct any line, may obtain a provisional certificate on application to Government, which certificate will enable them to make a provisional survey thereof, care being taken that they shall neither cut trees, nor annoy the owners, nor injure or destroy any property. Sections III to IX provide for the appointment of Commissioners on the part of Government to inspect the line; these Sections require the Commissioners to notify the direction of the intended line at the principal Civil Court, at the Court of the Magistrate, at every head Police Station, and at every important Bazar, by or near which the intended line shall pass If any persons object to the direction of the line, they may be heard before the Commissioners, but they are bound to describe any variation which they may think preferable. This, which is an emendation on the former Bill, has been introduced in order to prevent frivolous objections to such schemes, and it has been considered not unreasonable that the proprietors of land, and not the promoters of the scheme, should be bound to describe particularly the variations which they propose. On the hearing of these objections and on their inspection of the line, the Commissioners are empowered to make their final report to Government. In the case of Branch Railways proposed to be connected, or, to use the engineering expression, to form a junction with any public Railways, Sections VIII, XIII, and XVI provide for the arrangements to be made between the public company and the promoters of the private scheme. The promoter may be required to pay the expense of the junction, and the public company may be directed by Government, if it thinks necessary, to construct side rails, points, sidings, and wharves, which would be necessary for the junction. The point here to be considered will be the safety of the traffic on either or both lines. Section XII declares lines constructed under this Act to be available to the public in such manner, and by such vehicles, as are not inconsistent with the nature and scope of the line. To put the matter into as few words as possible, the community must look for steam carriages on railways, trucks on tramways, wheeled vehicles of different descriptions on high roads, and boats and barges on canals. Another Section to which I would invite your particular attention is that which empowers Government to see that the promoters of these schemes continue to the public such rights of way or other easements as have been previously enjoyed by them, as well as to take care that drains and other works be constructed for the drainage and irrigation of the neighbourhood; but this provision will only be put in force on lines while under construction. People are bound to keep their eyes open, and to exercise reasonable vigilance, and it would be hard to require an expenditure from the promoters, after the line had been completed, and was in working order. There are some more Sections which relate to the appointment of an Inspector, and to the imposition of fines in cases of obstruction, or of contravention to the provisions of this Bill. And I would here mention that it has been found necessary to refer to two other laws in our statute books, and to make them applicable to these works. The first is, naturally, the well-

known Act, VI of 1857, which provides how lands required for public purposes are to be taken by the officers of Government. Works constructed under this Act, of a public character, though by private individuals, will be entitled to claim the aid of the same Act. The second law is Act XVIII of 1854, which relates to the management of public Railways and to the preservation of order thereon. The provisions of that law, which are in considerable detail, and which relate to the imposition of penalties and the levy of fines, can be applied, wherever applicable, to the present Bill Almost the two last Sections of the Bill relate to the case of mines, and here my attention has been directed to the provisions of an English Act of Parliament on the subject, which amply provides for all contentions that may arise on such a delicate subject I was at first inclined to import them almost bodily into the present Bill, but on looking carefully into the matter I found them to be in such profusion of detail that they would have been hardly in keeping and harmony with the structure of this Bill. I thought, too, that sufficient would be done to meet any exigencies under our present state of information by leaving Sections XX and XXI as they stand The first secures to proprietors of lands, that may be taken under the provisions of this Act, their rights to the mineral resources thereof, in the absence of express agreement to the contrary; and the next obliges such proprietors so to work the mine as not to cause damage to the road or Railway or insecurity to the traffic I therefore think that these two Sections will meet, for the present, every ordinary contingency, and I would remark that we are not yet legislating for a tract resembling the county of Northumberland or the Forest of Dean.

The Bill, as originally published, was sent to the present able Lieutenant-Governor of the North-Western Provinces, and from him and from various engineer officers subordinate to him, several emendations and suggestions have been received, the best and most applicable of which have already been introduced into the Sections.

I have thus explained to the best of my ability the main principles and details of this proposed enactment. I invite thereto the strict and severe scrutiny of the Council, believing the object to be not unworthy of their support. I would express my humble but sincere conviction that the measure does not unfittingly inaugurate the assumption by you, Sir, this day, of the legislative administration of the important provinces confided to your charge The law is really required. It is calculated to reduce time and distance, to equalise the prices of commodities, and to afford an outlet for legitimate speculation and enterprise; and, though it appears to invade the private interests of others, it will be found, I believe, wholly innocuous if not absolutely beneficial to them, while it will materially feed our public resources, and be a powerful auxiliary to those great lines of communication which are either constructed or guaranteed by the State.

MR MAITLAND entirely agreed with the Honorable Member's observations with regard to the importance of the Bill. He viewed its introduction with great pleasure as one of the many steps which were now being taken in the right direction, and he believed that it would be attended with great benefit to the community at large. The Bill itself was a re-introduction of the one introduced by the Honorable Member into the old Council with the important alteration that its scope was extended to high Roads, Navigable Rivers, and Canals. The Honorable Member, however, was in error in stating that his previous Bill had met with no opposition. He held in his hand a document signed by himself as Chairman of the Landholders and Commercial Association, in which the Petitioners, after expressing generally their concurrence in the principle of the Bill, went on to say that it did not go sufficiently far to meet the requirements of the country, and the Commissioner of Benares had expressed

the same opinion, and that, by a singular coincidence, on the very date of the Memorial to which he had just alluded. [Mr. Maitland here read extracts from the Petition of the Association and the letter of the Commissioner of Benares, both dated 16th August last.] He rejoiced to see such a Bill introduced, but did not think it went far enough for the requirements of the country. He was glad, however, to hear the Honorable Member say that he would not oppose any extension of the principle of the Bill. Various points required alteration, and would call for the careful attention of the Select Committee. Two questions of considerable importance, he said, would at once arise. If Branch railroads in connection with the main arterial lines were to be made, who was to make them; and could the existing Companies family claim anything like a right of "refusal?" The other question was that of the "Gauges"—whether it should not be required that all lines should be made of the same "Gauge." He could not before sitting down refrain from expressing his satisfaction at the introduction of so good a measure, and he would re-echo the words of the previous speaker and join him in congratulating the Honorable President upon the auspicious circumstance of its having been introduced upon the first occasion of his presiding in that Council.

MR. PETERSON wished to express his approbation of the Bill. It was one of the first of a class of Bills which were a step in the right direction, and he hoped and believed that no one in that assembly would raise any objection to its principle. There was an old saying in England, "Mend your Ways," and he conceived that there was no place more ripe for the application of that saying than Bengal. The subject was one which had long occupied his attention, and he had some time before, when in England, thrown out some suggestions on the subject which he was glad to see were embodied in the present Bill. He himself, from his connection with the Bengal Coal Company might be supposed to be in favor of monopoly, but so far from that he saw no harm in competition. The more open traffic was the better. He would be glad to see means of communication opened to such an extent that each and everyone could come into the market fairly. He remembered a conversation which he had at Jessore some years ago, with an Honorable Member now sitting opposite him (*Mr. Seton-Karr*), upon the subject of roads. He certainly then felt keenly the want of proper lines of communication. His bearers had run all away, and he had been compelled to travel some thirty miles on a hackery. But now the subject of making new roads and tramways was attracting much attention among capitalists. That very morning an Engineer had called upon him asking him to take shares in a London Company, who were prepared to find capital to lay down tramways. He of course as a Member of that Council could not at present take part in such a project; but he believed it would be eminently successful. In his opinion the Bill scarcely went far enough. He was convinced that there was an immense amount of traffic to be picked up in Bengal,—a traffic which would astonish the most eager traffic-seeker, accustomed to the suburbs of larger towns. When railways were first hinted at in this country, it was urged that the natives did not know the value of time, and that it would be difficult, if not impossible, to persuade them to avail themselves of railway accommodation. Results, however, entirely falsified that prediction. He himself had a great desire to see the introduction of Street Railways, and it was a question whether provisions might not be advantageously introduced into this Bill to carry out that object. It should be distinctly understood with regard to railways that the main line should have nothing to do with the rules affecting these branch lines. What he expected and hoped to see was the construction of iron roads by which railways themselves would receive a large supply of traffic, and by which Navigable

Rivers and Canals might be made the means of shortening the distance between the consumer and the producer. He was convinced that in the Suburbs of Calcutta, Street Railways would be found of the greatest advantage. In America, where they existed, the charge was a cent per mile, and would not any native be glad to pay half a pice to be brought into town daily to his work? To establish such a system would be to open the door to an amount of traffic which had never been contemplated, and he hoped that the present Bill, when it became law, would tend to produce that result. Owing partly to the climate and partly to the materials used, roads in India were unsuitable for traffic during certain months of the year. But tramways could be most easily constructed so as to be available at all seasons. He doubted not that the attention of persons who wished to invest Capital would be more and more directed to this subject He could see no better opening for speculation than a scheme for facilitating communication As he said before, he would object to Railway Companies, who always displayed a tendency to claim a monopoly, having any voice in the management of these branch lines except with regard to the construction of a terminus, and such arrangements as to curves and gradients as might affect the traffic of the main line or endanger human life. He begged to tender his thanks to the Honorable Member for having brought forward so liberal and comprehensive a scheme. It was a scheme which opened out a new era for Bengal, a country for which it was peculiarly adapted.

THE ADVOCATE-GENERAL would express his entire concurrence in the sentiments which had been expressed by the previous speakers. With regard to the question of extension, he thought the scope of this Bill ought to be extended. He understood this might be done by the Committee to whom this Bill would be referred. If he thought it could not be extended while in Committee, he would have moved that the Bill should now, before it was read in Council, be referred to a Select Committee with instructions to alter it by extending its scope. For his own part he would be in favor of the application of the principle and machinery of the Bill to objects more extensive than it appeared to contemplate He would not discuss the details of the Bill. But he might remark that one deficiency in the latter portion of it struck him. He did not think that sufficient provision had been made to secure to the public the advantages of works constructed under the Act

THE PRESIDENT said, it gave him great pleasure that such a Bill should have been introduced on the first occasion he had the honor to preside in that Council He was also exceedingly glad to see the unanimous support which had been given to the principle of the measure. A general feeling seemed to prevail that it might be extended so as to embrace a much wider scope His own opinion, after having listened to the discussion, was that it might be extended almost without limit, and he should be disposed to offer a suggestion to the Select Committee that it might be better to describe the Bill as one to encourage the investment of private capital in the construction of Works of Public Utility, than to retain its present restricted title. Many valuable suggestions had been made in the course of the discussion, and with most of them he was inclined to concur. It would be for the Select Committee to give the most careful attention to the Bill, for it was one of the greatest importance, and one by which the welfare of the community would be very materially affected. He gave his cordial support to the measure.

The Bill was then read in Council, and referred to a Select Committee, consisting of the Advocate-General, Mr. Seton-Karr, Mr. Maitland, Mr. Peterson, Baboo Prosonno Coomar Tagore, and the Mover Mr. Fergusson.

The Council then adjourned.

Saturday, May 3, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal,

Presiding.

T. H. Cowie, Esq., *Advocat-General*, H D H Fergusson, Esq., E H Lushington, Esq., W S Seton Karr, Esq., Moulvy Abdool Luteef Khan Bahadoor, J N. Bullen, Esq., W Maitland, Esq., A T. T Peterson, Esq., and Baboo Prosono Coomar Tagore.

ZEMINDARY DAWKS

On the Motion of Mr. Fergusson the Bill to impove the system of Zemindary Dawks in the Provinces subject to the Government of Bengal was re considered in order to the settlement of the Clauses; and a few verbal amendments having been introduced, the Bill was passed by the Council.

MUNICIPAL COMMISSIONERS FOR THE TOWN OF CALCUTTA

MR. FERGUSSON in moving that the Bill "for appointing Municipal Commissioners for the Town of Calcutta and for levying rates and taxes in that town" be read in Council, said that when he had moved for leave to introduce the Bill he had mentioned the circumstances which had led to the proposed alteration of the municipal arrangements of the city. It seemed, therefore, unnecessary for him to occupy the valuable time of the Council by going over the same ground again It would be remembered that the Government had appointed a mixed Commission to enquire into the subject, and upon their Report which was annexed to the Bill, the present Bill had been founded. The President of that Commission was now a Member of the Council, and would no doubt give the Council full explanations as to the projected scheme. He begged to move that the Bill be read.

MR. SETON-KARR said—Since the Honorable Member who has just sat down clearly explained the composition and object of the Commission that sat last year, at the time when he asked for leave to introduce this Bill, I need not detain you long on that part of the subject. When, on the Commission, we came to consider what would be the best arrangement for managing the Conservancy of Calcutta, I own that the idea of entrusting this duty to the hands of one single person, did present itself to our minds. The theory of a civilised despot has a certain attractiveness which not unnaturally commends itself to some persons I can conceive, perfectly well, the image of a Dictator who should disregard prejudices and override objections, who should pierce new thoroughfares through the heart of a crowded city; should purify huge drains, adorn public buildings, and perhaps leave a city of marble where he had found one of brick But I must say that there was nothing in the replies of the witnesses examined before the Commission, nor in any suggestion offered by any society, or influential body, or by any independent individual, though we freely invited suggestions, which could have led the Commission to assume that any such municipal despot would be acceptable to the community at large, consequently, after much consideration, we adopted the scheme on which the present Bill is based, a scheme which had been devised by our Colleague, the Honorable Mr. Fitzwilliam, and which was finally approved of both by the Government of Bengal, and by the Government of India, as certainly deserving a fair trial. I would now wish to anticipate some of the objections which may possibly be raised against the proposals. It might be said, that whereas we had objected to the present Municipal Board, we were not likely to improve the city of Calcutta by substituting six Boards for one; but, under the present Bill, the area of the Divisional Commissioners or Boards, as well as their duties, will be much less extensive. For instance, the actual space of the operations of each Division will be defined and limited. The Divisional Commissioners will have no concern with the assessment

or the collection of taxes. They will only have to expend properly the funds allotted to them, and they will have no power to originate any important works, forming part of a general system, and affecting the health or the convenience of the residents of the whole town. It will be necessary that one of them should sit daily to hear the reports of overseers, to pass summary orders on the back of those reports without keeping or writing voluminous records, or to give verbal instructions to their subordinates; to see that nuisances are promptly removed, and that all breaches of the Conservancy laws are prosecuted with energy before the Magistrates of the town. To do that, would not take up a large portion of any man's time; nor, though it were imperative that one Divisional Commissioner should sit every day, would it be at all imperative that all the six Commissioners should all sit in rotation. It is quite possible to imagine the Conservancy of any one Division falling into the hands of one or two individuals who had more time, energy, and capacity for this peculiar duty than their Colleagues. I would here specify the changes in the Statutes which this present Bill will render necessary. The year 1856 saw several Acts passed for the Conservancy of the principal towns in India, and I would solicit your attention to the following changes. Act XXVIII of that year, with certain modifications, becomes the Bill which I now hold in my hand, for the appointment of Municipal Commissioners: Act XIV of the same year, also modified, will become the Bill regulating improvements in the Conservancy of Calcutta; and Act XXV, which relates, not to the imposition or rate of taxes, but to the mode in which they are collected, would remain exactly as it was. There is one Section in the Bill—viz., No. 8, to which I would also invite your particular attention. It is quite possible that the scheme I now propose may be neither an entire success, nor an entire failure. In some Divisions the public spirit of the inhabitants may be at fever heat; in others, it may be lukewarm; and in others, again, it may be down at zero. It is very conceivable that in certain Divisions of the town six competent persons may not be found for this duty; or, if found, that after a time they may evince a distaste for the work. I think it would be unfair to discard the scheme altogether, because it had failed in certain sections of the town. To meet this difficulty, I have therefore introduced into the Bill a Section providing that in cases of recusancy or failure on the part of the inhabitants in any one Division, the affairs of that Division shall immediately be placed in the hands of the President of the Central Commissioners, who will assume the duties and fill the place of the Divisional Board, and to whom in that capacity, will be applicable all the provisions of the Bill that were applicable to Divisional Commissioners. A spirit of emulation and competition might thus be excited, and the merits of the two schemes would have a fair trial.

I next proceed to explain that part of the Bill which relates to additional taxation. From enquiries made from persons competent to speak with decision, we came to the conclusion that, to provide decently for even the ordinary requirements of the city, a sum of from twelve to fourteen lakhs a year was absolutely required; while, if extensive works were projected or a large sum were raised by loan, for which it became necessary to provide a sinking fund, or to guarantee the interest upon, a sum of no less than twenty-two to twenty-three lakhs a year would be found requisite. Now, the present municipal funds of the city amount, in round numbers, to eight lakhs a year. I believe that they are slightly under that sum, but as they are, even now, gradually increasing, it is not unsafe to set them down at eight lakhs. Thus to meet fully the additional wants of the city, the community might have to submit to twice or to nearly three times the amount of taxation to which it does now. The modes, then, by which the Bill proposes to raise additional funds, are as follows:—It is

Mr. Seton-Karr.

proposed to double the wheel-tax, and as 84,000 Rupees was derived from that source last year, it is not unreasonable to hope that an additional sum of almost the above amount might be obtained by simply doubling the tax. The Council are aware that a considerable portion of the municipal funds are devoted to the thorough or partial repairs of roads, and as those repairs are caused by the increase of daily traffic, it is but fair to lay the tax on the owners of vehicles who derive benefit from the same, or who wear out the streets. Next, it is proposed to demand a registration fee on hackeries or bullock carts, of six rupees a year per head. If the cart change ownership within the year, a further fee of four annas will be demanded This will replace the wheel-tax with regard to these particular vehicles, and it is thought that such an assessment will be more conveniently collected from the owners than the old tax was by quarterly payments The third fresh source of taxation is a water rate of 2½ per cent. Now, Sir, as the lighting tax of 2 per cent has produced the sum of 2,20,000 rupees a year, I have some hope that the water rate may produce at least that amount. No date for the imposition of this tax has been mentioned in this Bill, but the point is one to which I would request the earnest attention of the Council. If no rate is levied till the water works are completed, municipal funds will suffer; if a rate is attempted to be levied at once, the community will naturally object. It occurs to me that, perhaps, the fairest way of imposing such a tax would be to commence the assessment and collection thereof from the time when a certain specified amount of capital had been actually expended and sunk in the works. But on this head, I should wish to ascertain the sense of the Council. These were the additional sources of taxation which occurred to us. The house tax appears to have reached its furthest limits; owners are now paying a tax of 7½ per cent. It is expected, however, that this tax, by its mere expansiveness, may yield one more lakh of rupees in the course of about three years, as more houses are built which come under such taxation. Then, there is the one per cent. of the Income tax, which may be devoted to local improvements. It has been clearly pointed out by the Government of India, that, by law, this resource is limited to works which are reproductive in character. Now, I should imagine that no portion of these funds could be spent on a system of sewerage; nor perhaps on the repairs of roads and streets. But I should assume that they would be applicable to works constructed for the purpose of supplying Calcutta with drinking water, from which a return would be derived in the shape of a water rate: or to the purchase by the Commissioners, of pieces of land which they might let out on long leases for building, or through which they might form new streets, parts of which might be let out as frontage to shopkeepers. One source of taxation had been proposed to the Commission, namely, tax on shops. But when I consider that the tax for licensing Trades and Professions has lately been abandoned by the Imperial Government, and the proceeds returned to the payers, I have grave doubts whether any attempt to impose a tax on shops would not be looked on as an attempt to re-introduce the License Tax in another shape. At any rate, I had no doubt of the propriety of omitting the tax from this Bill. In pursuance of enquiries on this point, it was discovered that a gentleman well acquainted with the wants and capabilities of the city, thought that a tax of this name might be laid, not on regular shops, but on mere squatters who established their stalls in some favorite corner, or over the top of particular drains, and remained there for years, if they were not ordered away. But the proceeds of this tax would have been so small as scarcely to repay the trouble and cost of collection. A trifling addition may be expected from a Notice of Demand for which tax-payers will be called on to pay the sum of one rupee. The sum will not be asked for when the Bills

are first presented, but on failure of payment, which renders it necessary to serve the notice. These are all the sources of taxation which have occurred to us, and which are introduced into the Bill.

MR. SETON-KARR was proceeding to make some remarks on the Bill for the conservancy and improvement of the Town of Calcutta, when—

THE PRESIDENT said—I must inform the Honorable gentleman that he is out of order in speaking on the merits of a Bill which is not yet before the Council.

MR. SETON-KARR resumed — I bow to the decision of the President, but the two matters are so closely connected, that it is almost impossible to think of them separately. I reserve my remarks on the conservancy of the town till the Bill is actually brought forward. As regards the present Bill for the Commissioners, I have again to solicit the attention of the Council to the separation of the duties of the Divisional and the Central Boards. To the latter will be entrusted the collection and the allotment of the funds, the prosecution of important works, the purchase of lands, and the renewal of roads. The Divisional Commissioners will, each in their sections, carry on all the pressing details of conservancy; will see that impurities are daily removed; that the subordinate officers do their duty; and that cases of breach of laws are quickly taken up. I should be most unwilling to press on the community of Calcutta any scheme contrary to their wishes. I shall be happy to attend to any suggestion of this Council; and I call on them to do their utmost more sharply to define the functions and to apportion the responsibilies of the two sets of Commissioners, and to improve the Bill by all the means in their power, so as to render it as acceptable as possible to the residents with whom, after all, the success or failure of the measure must rest.

MR. PETERSON agreed with the Honorable Member that it was almost impossible to consider one of these Bills without the other, as the principles of the one were so interwoven with those of the other. He would, however, endeavour as much as possible to confine himself to the subject of Municipal Commissioners. He looked upon the establishment of a number of local Boards as being very objectionable, and he also objected to the proposed system of taxation. He did not know how far this assembly could interfere in any question of imperial Taxation, but he presumed that the one per cent. of the Income Tax, a portion of which would be appropriated to the purposes of the Town, was intended to be applied to works of a permanent character and not to recurring charges as repairs, &c., but he felt himself at liberty to go into the question of Taxation proposed by the Bill then before them with these preliminary remarks. He said he opposed the Bill *in toto* as being utterly unworkable in any shape, and he would divide the objections he entertained to it into three heads. He objected in the first place to the principle, in the second to the details, and his third and strongest objection was to the principle of taxation adopted. He was one of the last persons in Calcutta to stand in the way of improvement, but he thought a more mischievous principle of taxation had never been devised than that contained in the Bill. As regarded the principle of the Bill he had read over the evidence taken by the Commission, and without doubting in any way the integrity of those gentlemen, he must say he could not deduct the principle set forth in the Bill from the evidence taken before them. They had *usque ad nauseam* evidence as to existing details, but not a tittle of evidence beyond that of Colonel Thuillier affecting the broad principle of the Bill. He had no hesitation in saying that Divisional Boards never could work, and imperfect as the present system was, it was better than the one now proposed to be introduced into its place. At present they had to some extent a responsible agency to carry out the municipal work, but the system of Divisional Boards must fail the very first month of its trial. The honor of being a Member of the Divisional Committee or

of voting once a quarter in the Central Board would soon wear out, and Members would neglect their work. There was an anomaly in giving these Divisional Boards a corporate seal and the power and the liability to be sued, when a Division had no control over a larger sum than 300 Rupees. The Council would observe that not only had they a most extraordinary trinity, but a trinity that could never be in unity The Central Board would never be able to work with the Divisional Boards, nor would either of them be able to work with the Government. It was made imperative that one Member of the Divisional Board should sit each day, but he would ask if it was likely that any man, who was not paid, either in coin or kind, would give up one-sixteenth of his time to carry out the provisions of the Bill. He should suggest that the real work of the Municipality ought to be carried on either by means of an Officer paid by Government and responsible to Government, and whose whole time should be devoted to the work, or by means of well-paid Officers who should be the servants and not the masters of the Municipality If they wished to secure the willing assistance of European as well as the Native gentlemen, they must adopt the principle that existed in all the large towns in England They must have a Municipality of unpaid Members, in whom would rest the appointment of Town Clerks, Assessors, and other well-paid Officers to be kept up to the work required, under the orders of the Municipality. In every town in England, although the Officials were kept in order by the Town Council, the work was practically done by the paid Officers, and in nine cases out of ten the Municipal Committee took their line from their paid Executive Officers. They must offer some inducement to get men to give their unpaid service, and if they could not afford such inducements, they had better leave matters as they were. He had no doubt that the duties of Conservancy would be much better performed if they were [illegible] single Officer appointed at a high salary, whose sole time could be devoted to the duties of the office. If the people of Calcutta wished to adopt the principle of self-government, it ought to be a real self-government, and not one in name only. He would ask the Honorable Member who brought forward this Bill on what principle of self-government this Bill was framed, and how he could call the appointment of Divisional Boards a step in that direction when each Divisional Board had no independence and not even the control of the purse beyond 300 Rupees If Calcutta was to have Municipal Institutions, he thought it much better to reject the elective principle, and leave the appointment of the Members of the Municipality in the hands of the Government of Bengal. Another most material difficulty arose with regard to the *proportion* of the rates paid by the respective portions of the community. Independently of the objections he had to the principle of the Bill he had a great objection to its detail in the division of the Town into wards. In England, in the Municipal Corporations established under 5 and 6 William 4, c. 76, wards were divided entirely in proportion to the rating, so that a poor ward extended over a much larger space than a rich one. But the division proposed in the present Bill appeared to him to be faulty in the extreme as being an apportionment of space rather than of rating. Under the present Bill, as far as he could see, they might have poorer divisions voting for expenditure, while richer divisions had no voice in the matter. He might, however, say that, whatever might be the fate of this Bill he thought that in a scheme like the present one, not only the principle but the details of the Bill ought to be discussed before being sent into Committee. He had been much surprised in reading the evidence taken before the Commission to see that, with the exception of the evidence of Colonel Thuillier, there was not one bit of evidence which in the slightest degree re-

ferred to the principles proposed in the present scheme. Beyond the evidence of that gentleman, there was nothing, to use a common forensic expression, to go to the Jury. He had so far pointed out what he considered to be a defect in the principle of the Bill. It would be said that he ought not to find fault if he could not suggest a remedy, and therefore he would endeavour to point one out. They could not do without paid Officials, and if they could not pay in malt, they must pay in coin. He thought that they might reasonably expect Members of the Municipality to come forward in a patriotic manner and give their services: but then there must be some honor attached to the post. He could assure the Honorable Member that he did not wish to offer any factious opposition to the Bill: but he certainly thought that if self-government were to be the principle of the Bill the Municipality of Calcutta should be carried out by paid Officials under the control of the Municipality, for then such Officials would naturally exert themselves to merit the approval of their employers. Under the proposed system the persons who were to be paid would in fact be paid out of the rates of the Municipality and be the masters not the servants of the Municipality. It was a farce to say that the present Bill involved any principle of self-government. The Municipality would, as at home, elect persons to control the expenditure, but the business of the Town should be carried out by paid Officials. He thought that Engineers, Surveyors, Town Clerks, and the other working staff should be directly amenable to the persons selected by the Government of Bengal, as forming the Municipal Body, and as these persons would be selected from the rate-payers they would take care to retain the services of men qualified for the post. There was one point on which he wished to comment. Although Mr Wauchope in his evidence seemed to have a just objection that the Police and Municipality should go together in any way, he, in the most modest way, instituted a very favorable comparison in favor of his own position. Now he thought that the Police ought not to be separated from the Municipality. In every town in England the Police was subservient to the Municipality, and a question might arise as to the adoption of that plan in this country. But if persons were selected to represent the Municipality, such persons ought ex-officio to hold the powers of Magistrates and Justices of the Peace. There were many other matters of detail in the Bill upon which he would not at present offer any comment, but he observed that the word "Magistrate" only implied Police Magistrate, and that he thought was a shortcoming. Those were his objections to the principle of the Bill. The only plan was either to place the whole Municipal arrangements under the control of one despotic individual, or, if they made any approach to self-government, to have the work carried on by a well-paid staff subordinate to a Municipal Board. He did not wish to utter any prophesy, but he was sure that the present Bill, if passed into law, would within twelve months prove a dead letter. There would be continual clashing between the Divisional and Central Boards, and between them and the Government, and no evil was felt so much in this country as the multiplicity of Rules and the utter destruction of everything in the shape of direct action. He had always been of opinion that the present Board had done as much as they could with the means at their disposal and the extent of the works under their management.

He should now come to the principle of additional Taxation involved in the present Bill. Calcutta could not be made a paradise with roads as even as bowling greens, or have sweet drains or other conveniences without paying for them. Calcutta must be prepared to pay, but the question was, were the modes of new Taxation proposed likely to carry out the principle of getting the most and being the least burdensome. He must review the present system of Taxation. They had begun with a house tax, then a light-

ing-tax, than a tax on drains when they had no drains. And now they asked for a water-rate when they had no water, for he did not call the Engine at Chandpaul Ghaût anything. There was already in the shape of water-rate a heavy tax in this country, which was unknown in England, namely, the pay for bheesties. He should like to know how any one in England would like to pay £7 to £14 a year for water tax. Yet still, whilst the charges for bheeties were still going on, it was proposed to levy a water-rate. He was aware that the subject was a tiresome one, but he felt bound to comment upon it, in order that the question should be fully discussed. He had for years made it his study to see how Calcutta could be best improved with the least burden to its inhabitants, and he would be most happy to hear any objections that might be made to the principles which he set forward, in order that if he were wrong, he might get rid of his error. He objected to any anticipatory system of a water-rate. A sum sufficient not only to carry out a proper system of water-supply, but also the interest of money during the execution of the works, should be raised on the security of the Town rates. In a place like Calcutta, with such a constant change of inhabitants, the whole burden ought not to be thrown prospectively on the present race. They ought not to begin to levy the water tax until they were prepared to water the Town; the proper course would be to raise a sufficient sum of money on the guarantee of the Town rates. Provided the Taxes were fairly raised the water-supply was of all importance, and he believed if the cost of the proposed works exceeded the estimates 50 per cent., it would still be cheaper to the public than employing bheesties. Another mode of taxation proposed by the Bill was most objectionable. To a European in this country a Horse and Carriage was not a luxury, but a necessity, for it was impossible that he could come to his business without some conveyance. 72 Rupees a year for a Carriage and pair was a very heavy rate, and the effect of it would [illegible] many persons would reduce [illegible] establishments. He wished [illegible] fair trial [illegible] before the Council. The [illegible] enquiry and [illegible] nt was sufficiently high, and [illegible] mitted that it would be most impolitic to double this tax. It was a common opinion that money was pentiful in India; nothing could be a greater mistake. It was true that the salaries of Europeans were high, but then they were exotic plants, and it was necessary for them, for even tolerable existence, to make a greater outlay here than would be necessary at home. With regard to the question of licensing bullock carts, 6 Rupees a year appeared to be very heavy. It was true that bullock carts, describing an indescribable curve on the loose wooden axles, did great injury to the roads, but they were essential to the trade of the Port, and when a man and two bullocks had to be supported on 12 Annas a day, 6 Rupees appeared to be a very heavy impost. It would be most impolitic to impose such a charge, and he thought that the ingenuity of the Committee might have been turned to other modes of taxation. If the proposal were carried out, the result would be that depôts would be established outside the jurisdiction of the Municipality to the injury of the Town itself. He believed he might be able to point out a legitimate source of taxation, and that was the river bank. In Liverpool and in Glasgow the river bank virtually defrayed the greater portion of the Municipal expenses. There seemed to be some misunderstanding in the evidence of Colonel Thuillier and Mr Wauchope respecting the river bank belonging to Government as Zemindar He denied that it did so On the contrary, it belonged to the Town, and ought to be made a fruitful source of revenue. The Government merely held it for the Town as being the representatives of the old Lottery Committee. He said from his own experience that there was scarcely a port in the whole world where British ships resorted, where so much damage was occasioned in the loading. The

river bank[illegible] be made productive by levying [illegible] tonnage duty upon articles [illegible] a common fund made compulsory, the [illegible] Jury. saving of money to both [illegible] and the merchant. He trusted [illegible] Municipality would make use [illegible] the bank for the erection of warves and quays, and he was very glad to see that the Government had declined to hand it over to private speculators. Another source of revenue which he wished to see realized was the property in the roads vested in the Municipal Commissioners. They ought to take a hint from what had been done in America, where, if a Municipality did not make street Railways themselves they let the roads out for the purpose to some speculator, and thereby derived considerable revenue. Another question that might arise was whether the limits of the Municipality of Calcutta ought not to be extended. For his own part, objecting as he did to the Bill in principle, and in detail, he should certainly oppose it

THE ADVOCATE-GENERAL said, that although he would certainly pause before approving of this Bill in all its particulars, he was prepared to support its general principle, notwithstanding the able speech of the Honorable and learned Member who had just spoken. He was prepared to vote for the reading of the Bill, because he found it had been introduced after an enquiry conducted with considerable care by a highly competent Commission, comprising gentlemen so selected as to represent all the various interests of the community. In supporting the measure, however, he should look upon it in some respects as an experimental one, and he in no degree committed himself to the expression of any opinion as to its details. There was one difficulty which occurred to him, with reference to the form of the Bill, and that was that the Bill did not make any provision for the conservancy arrangements of the Town. The Bill was most incomplete in its present shape, and it certainly ought to have had the Conservancy Act of 1856 embodied in it. He thought it would be extremely desirable that the duties of the Commissioners should be clearly and accurately defined in one Bill. As it now stood it contained elaborate provisions for the appointment of Divisional Commissioners; but it did not provide what acts they were to do. He wished now to offer a few observations on the topics which had been alluded to by his Honorable and learned friend. The Honorable gentlemen had attached undue importance to what appeared to be a very trivial Clause of the Bill, namely, that Clause which constituted the Divisional Commissioners a corporation, and gave them power to use and made them liable to be sued. But the Select Committee could strike out that part of the Section which was objected to and make the Central Commissioners alone a corporation. The Honorable gentleman had told them that the duties which it was intended to impose upon the Divisional Boards were of so insignificant, and, he might say, so unsavory a character, that no unpaid body would be prepared to undertake them. Now, if that was to be the case, all that could be said was that the measure would be brought to a test very soon indeed. So far as he could judge, he thought that if the principle of a Divisional Board were found to be impracticable in one or even more than one of the divisions of the city, a sufficient alternative was provided in the Bill by transferring the management to the President of the Central Commissioners. As to an elective system for the appointment of those who should dispense the funds it had been admitted to be impossible and to have utterly failed when tried. There could be no doubt that the members of the present Municipal Commission had done as much as their limited means would allow them to do. He could not join in the somewhat visionary schemes that seemed floating in the head of his learned friend. With regard to taxation, if works were required, out of what funds were they to be paid for? And if money were to be borrowed, where was the interest to come from, and

Mr. Peterson.

what would be the security for the loan? The Bengal or the Supreme Government might stand guarantee for the money, but he thought that the Railways would be a lesson against that. Under such circumstances there was only one course left for them to adopt,—the system suggested in the Bill by which money would accrue from prospective rates. He believed that he was perfectly correct in stating that, having regard to the necessary expenditure on existing works, the existing rates were totally insufficient: it was therefore only on the security of new and additional rates that it would be possible to raise the money required for any great works of a permanent nature. With regard to what had been said in reference to the river bank, the improvement suggested would involve a very large expenditure, and it might be a question from what source the requisite funds could be procured. Upon the whole, he might say that the difficulty with respect to the Bill which he felt most was as regards the mode of carrying out by the Divisional Commissioners of the provisions which it would be necessary to enact as to the conservancy of the Town. There would certainly be a total want of uniformity in the mode of action of the different Boards. That was a difficulty worthy of consideration, but it was one which could easily be surmounted by prudence and good management on the part of the Central Commissioners, who would have a power of supervision. As to the extension of the principle of the Act to the suburbs, he quite agreed with his Honorable and learned friend that such an extension was highly desirable and he should not be sorry to see the inclusion of Howrah in the system of Municipality adopted for Calcutta. Without committing himself to the details of the Bill, he believed that the Bill was one which deserved a fair trial, and he therefore gave it his support.

MR MAITLAND supported the Bill very much on the same grounds as those stated by the Honorable gentleman who spoke last. He was not quite so sanguine as to the success as he could wish, but he thought that it deserved a fair trial. It was the result of the enquiry and Commission appointed by Government, and as the general opinion appeared to be that some change was required, and that an attempt should be made at self-government. With regard to the remarks made by the Honorable and learned Member opposite (*Mr Peterson*) he must say, in justice to the Special Commission, that they had both privately and publicity invited evidence from all quarters. The Honorable Member seemed to think that it would be difficult to find thirty-six Divisional Commissioners, and he (*Mr Maitland*) feared it might be so, though he hoped not, but in such a case provision was made in the Bill, for the affairs of the division to be managed by the president of the Central Board. One of two things would therefore happen. Either they *would* be able to get the Divisional Commissioners, and then all the fears of the learned Member would be at an end: or they would not, and then they would have the "enlightened despot" whom the Honorable Member seemed rather in favor of. As to the river bank, he agreed with that learned gentleman, although some difficulty might arise in carrying out his ideas on the subject, and as to street railways he went entirely with him. He had had the opportunity of seeing the working of such railways in America, and they could easily be introduced here with great advantage to the community at large.

BABOO PROSONNO COOMAR TAGORE considered that the Bill with some modification would prove of great advantage, and therefore he would support the Motion that it be read. He understood that there was a promise on the part of Government not to build on the Strand, which would make it impossible to built wharves in the manner proposed.

THE PRESIDENT said that if the question had been that the Bill do pass he should unhesitatingly have

given in opposition against the Motion. He thought it seemed a fact which could not be questioned that the evidence taken before the Commission which sat to consider this subject, did not support the conclusions at which they had arrived. It appeared to him that the members of the Commission, no doubt after much consideration, had been carried away by a plausible scheme suggested by an Honorable colleague of his own in another place, and by an anxiety to propose a scheme acceptable to the public of Calcutta generally. It appeared to him that the Commission had omitted to take into consideration many important points which ought to have guided their decision: and he thought that if the observations of the Honorable and learned Member who had opposed the Bill had been placed before them, they would have considerably modified their decision. The real question, however, now before the Council was whether they should continue to govern Calcutta in an arbitrary manner, or whether they should modify the present system and introduce the principle of self-government. He should be sorry indeed if any vote of his should be taken to imply that he was opposed to the principle of self-government, for he would be most happy to see Calcutta governed by a Municipality, and removed from the direct control of the Officers of the local Government. But the difficulty was to devise a system to effect this object, and he must confess that he thought the scheme devised by the Commission, and embodied in the Bill now proposed to be read, would not answer the expectations entertained of it. Considering, however, the principle involved in the Bill, he should feel it his duty to support the Motion that the Bill be read in Council. But he hoped that the Select Committee to which it would be referred would take upon themselves the utmost latitude in dealing with the question, and, would, if necessary, take the evidence of persons capable of giving the best advice. He thought it more than probable that the Select Committee, before the Council met again, would be able to prepare a revised measure of Municipal management such as the Council could pass into law. With regard to what had been said in reference to the river bank, his memory was not quite clear on the subject. He believed, however, that the fact was that the Government, acting as the representatives of the Lottery Committee, had made some sort of promise to owners of house property on this side of the Strand, that the Strand road itself should never be taken for building purposes. But he never, so far as his recollection went, heard of any guarantee being given as regarded the river bank, and he knew of no impediment, such as had been alluded to, in the way of constructing wharves or other useful works for general convenience.

The Bill was then read, and referred to a Select Committee consisting of the Advocate-General, Mr. Seton-Karr, Moulvy Abdool Luteef, Mr. Bullen, Mr. Maitland, Mr Peterson, Baboo Prosonno Coomar Tagore, and the Mover.

CONSERVANCY OF THE TOWN OF CALCUTTA.

MR. FERGUSSON, in moving that the Bill for the conservancy and improvement of Calcutta be read in Council, said that the Bill was, in fact, part of the scheme referred to in the Bill which had just been read.

MR. SETON-KARR said that, though he had differed to the ruling of the President as to the separation of the Bills, he still hoped that Members of Council would give their attention to both Bills together, for, in point of fact, the one was only a supplement to the other. The Bill only re-enacted Act XIV of 1856. Although the Bill was somewhat bulky in appearance and prolific in details, it would be needless to go through its Sections, and he would therefore only call the attention of the Council to the changes proposed. The details, in fact, were of that minute, unsavory, and even offensive

particularity which was the characteristic of municipal laws, and reports from municipal bodies everywhere. One change ran through the whole Bill, and that was the division, between the two sets of Commissioners, of the duties which, in the old law, appertained exclusively to the present Municipal Commissioners. He observed, too, that by Section 3 of the Bill, the appointment and removal of all officers, not drawing more than 200 Rupees a month, would rest with the Commissioners. By Section 137 any prosecutions for breaches of the laws might be instituted before any persons having the powers of a Magistrate, unless otherwise provided; and this would include all Honorary Magistrates lately appointed for the Town. Section 142, as had been already remarked, provided for the extension of the Act beyond the present limits of the town. If, then, the Divisional Commissioners, in any one part of the town, fairly and fully exercised the powers so vested in them; if they saw that drains were kept clean, impurities were removed daily, and roads constantly repaired, so as to present an even surface, they would be discharging their duty, and would be entitled to the thanks of the community. As to the other changes in the law, in some instances the amount of the fine leviable had been increased. In cases where any one committed acts which might affect the convenience of the whole neighbourhood, or might wrap the whole side of a street in cholera like a garment, it seemed inadequate that the maximum penalty should only be 50 Rupees. For such cases the maximum had been doubled, and provision made for fine in case of repetition of the offence. The wording of some Sections had been improved, and some changes had been made as to the passing of bye-laws, and their publication in the newspapers and vernacular languages. The powers of Police Officers to arrest persons actually committing breaches of the laws had been more clearly defined: not that they had been made more stringent, but policemen would know what exactly they might do. With these remarks he laid before the Bill with the Council, [illegible] asking them, by fearless criticism, [illegible] revision, and judicious amendation, to do all that lay in their power towards making the law acceptable to the community, and adequate to meet the requirements of the town.

The motion was then agreed to, and the Bill was referred to the same Select Committee that had charge of the previous Bill.

SELECT COMMITTEES.

On the motion of *Mr. Fergusson*, Mr. Seton-Karr was made a Member of the Select Committees on the following Bills:—

The bill to amend the law relating to the Collection of Tolls on Boats and Vessels passing through certain Canals, Khals, and Nullahs within the tidal limits of the Bay of Bengal.

The Bill to amend the law relating to the appointment of Registers of Deeds, and for the establishment of Deputy Register Offices.

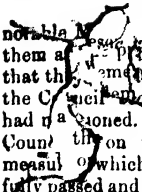
The Bill to provide for the Registration and Supervision of Native Passenger Boats in certain parts of Bengal.

The Bill to authorize the imposition of fines for outrages and trespasses committed by inhabitants of villages or members of communities in the provinces subject to the Government of Bengal.

On the motion of *Moulvey Abdool Luteef*, Mr. Seton-Karr was made a Member of the Select Committee on the Bill for regulating Public Conveyances in the Town and Suburbs of Calcutta.

CLOSING OF THE SESSION.

THE PRESIDENT then said that, having already consulted with his Honorable colleagues, he had ascertained that they were willing to acquiesce in his desire to close the Session, and he accordingly now declared the Session to be closed. It was not his intention to summon the Council again until after the October vacation, unless some emergency should arise to render it necessary to do so. He was thankful to say he did not anticipate any such emergency, and he thought that Ho-



whose avocations took them a[illegible] Calcutta need not fear that th[illegible] be called upon to attend the C[illegible] sooner than the time he had m[illegible]tioned. He congratulated the Coun[illegible] on the several admirable measu[illegible] which they had so successfully passed and so ably discussed during their short session: and he trusted that during the recess they might also occupy themselves with the business of the Council in such a manner that the Bills which had been already introduced, or others which were projected, might be brought to such a condition as to enable the Council to deliberate upon them at the beginning of the next Session.

The Council then adjourned *sine die.*

H. M.—Reg. No. 669SJ—50—10.10.81

Saturday, November 8, 1862.

PRESENT

His Honor the Lieutenant-Governor of Bengal, *Presiding*

T. H. Cowie, Esq., W. Maitland, Esq., *Advocate-General*, Rajah Pertaubchaund Singh,
W. J. Allen, Esq., The Hon. Ashley Eden, and Moulvie Abdool Luteef, Khan Bahadoor, Baboo Prosonno Coomar Tagore.
J. N. Bullen, Esq.,

MR ALLEN and THE HONORABLE ASHLEY EDEN took the usual oaths and their seats as Members of the Council.

SMOKE NUISANCES

THE HONORABLE ASHLEY EDEN moved for leave to bring in a Bill to abate and prevent nuisances arising from the Smoke of Furnaces in the town and neighbourhood of Calcutta.

The Motion was put and agreed to.

IMPRESSMENT OF CARRIAGE AND SUPPLIES

MR ALLEN moved for leave to bring in a Bill to amend the law regarding the provision of carriage and supplies for Troops and Travellers, and to punish unlawful impressment.

The Motion was put and agreed to.

TRANSPORT OF LABORERS TO ASSAM, &c.

THE HONORABLE ASHLEY EDEN, in moving for leave to bring in a Bill to regulate the Transport of Native Laborers to the Districts of Assam, Cachar, and Sylhet, said, he would briefly allude to the circumstances which, in the opinion of Government, rendered such a measure expedient. It would not be necessary to refer in detail to the progress which Tea cultivation was making in Assam and Cachar. It was well known that the only limit to the cultivation of what must, before long, be one of the chief staples of Bengal, is the scarcity of labor—a difficulty which can only be met by providing a supply of labor from other parts of Bengal where it can be spared. Any arrangement by which labor is transported from Districts in which it is abundant, and where wages are low, to Districts in which labor is scarce and wages are high, must, unless accompanied with counterbalancing evils, conduce so much to the welfare of the country as to deserve the earnest support of Government. But it was brought to the notice of Government that, owing to deficient organization, the system under which the Emigration of labor from the Western to the Eastern Districts of Bengal was at present carried on, was attended with evils of so serious a nature as to render the prompt interference of Government necessary. It had come to the notice of Government that every shipment of Coolies to those Districts was attended with great mortality,—a mortality reaching, in one instance, as high as 50 per cent.,—and there was no room to doubt but that this was mainly attributable to a bad system of recruitment and contract, and to want of care and foresight in the embarkation and despatch of the Coolies.

With a view of ascertaining the exact nature and extent of these abuses, and of obtaining some practical suggestions for their future prevention, a Committee of gentlemen of much experience in matters relating to native emigration was appointed. After a careful enquiry they submitted a report which showed that Coolies were shipped in large batches without any arrangement to secure order or cleanliness; that uncooked food was issued without cooks to prepare it; that the medical charge of the Coolies in many cases was left to ignorant chupprassies, who were entrusted with small supplies of medicine, with the uses of which they were of course as ignorant as the men to whom they administered it; that, in other cases, unqualified Medical Officers were sent in charge; that laborers were embarked in some instances almost in a dying state, and that overcrowded Flats were lashed to Steamers day and night, and the Coolies on board were thus

deprived of their only chance of free ventilation. The Committee found that there was no uniformity of system in the despatch and recruitment of Coolies; laborers in most cases were provided by Native Contractors at so much per head. Practically the supply of laborers was, they found, an ordinary commercial transaction between the Native Contractor and the Planter, "all parties considering their duty and responsibility discharged when the living are landed and the cost of the dead adjusted." There appeared to be no specific engagement on starting between employer and laborer—a state of things which opened a road to an immense amount of false statement and exaggeration on the part of the native recruiters and there was an entire absence of any efficient medical inspection of Coolies before shipment. The depôts of the Native Contractors were described as resembling more than anything else the half-dried bed of a nullah, greatly defiled by the surrounding people: and it was also stated that the supply of women was small—out of all proportion to the supply of men, the rate being only at 5 to 15 per cent.

It must not be inferred that, in the opinion of Government, the Planters themselves were to blame for the abuses of the system under which they received their supply of labor. It was certainly much to their disadvantage to pay large advances for men, who never reached them alive, or for those who, when they came, were found to be maim, blind, and incapacitated for labor. The Planters were in the hands of avaricious Contractors, and were not in a position by themselves to establish and organize a system for importing labor.

Having given due weight to the recommendations of the Committee, and having, during his late visit to those Districts, considered the whole question of the supply of labor, the Lieutenant-Governor came to the conclusion that the interference of Government was called for, both on the score of humanity and in the interest of the employers of labor. The present Bill has accordingly been prepared, and will, it is hoped, guard the interests, and meet the requirements of all parties. It provides for the licensing and control of Contractors and recruiters; the examination of Coolies by Medical and Protective Officers; the verification of contracts; the licensing of Steamers and Boats employed to carry Coolies, the treatment of Coolies on the road, for their examination on arrival; and for a due proportion of females accompanying each batch.

The Motion was put and agreed to.

PORT DUES IN THE PORT OF CANNING.

MR. ALLEN moved for leave to bring in a Bill for the levy of Port-dues and Fees in the Port of Canning on the River Mutlah.

The Motion was put and agreed to.

PASSENGER BOATS.

MOULVIE ABDOOL LUTEEF moved that the Report of the Select Committee on the Bill to provide for the registration and supervision of Native Passenger Boats in certain parts of Bengal be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

Sections I and II were agreed to

Section III being read—

BABOO PROSONNO COOMAR TAGORE moved to omit the words "or carry them for hire," which had been inserted by the Select Committee after the words "ply for passengers."

After some discussion the motion was negatived and the Section was passed as it stood.

Section IV was agreed to.

Section V was passed with the addition of the following words inserted on the motion of the Advocate-General.—

"For the purposes of this Act, the person in whose name a boat is for the time being registered shall be deemed the owner thereof and

the person whose name for the time being appears in the Register as being the manjee of a boat shall be deemed the manjee of that boat."

Section VI was agreed to

Section VII was passed after verbal amendments.

Sections VIII and IX were agreed to.

On the motion of the Advocate-General, the following new Section was added to the Bill —

"This Act shall not apply to any steam vessel or to any vessel or boat exceeding 1,000 maunds burden."

The Schedule, Preamble, and Title were agreed to.

BABOO PROSONNO COOMAR TAGORE moved that the Bill be re-published and reconsidered in its amended form a month hence The Bill as it stood went much farther than had been originally intended and it was only right that full time should be given for its consideration The original Bill applied only to Passenger Boats plying for hire, but, as amended by the Select Committee, it applied to all boats carrying passengers for hire.

The Motion was put and agreed to

REGISTERS OF DEEDS

THE ADVOCATE-GENERAL, who had a notice on the paper to move that the Report of the Select Committee on the Bill to amend the law relating to the appointment of Registers of Deeds, and for the establishment of Deputy Register Offices, be taken into consideration in order to the settlement of the Clauses of the Bill, said—that in consequence of the omission of a Clause by the Select Committee, an alteration of great importance had been made in the Bill, and he would, therefore, as so few Members were present, postpone his Motion till the next Meeting

PORT-DUES (CALCUTTA) CANAL TOLLS.

On the motion of the Advocate-General, Mr. Allen was added to the Select Committee on the Bill to amend Act XXX of 1857 (for the levy of Port-dues and fees in the Port of Calcutta), and on the Bill to amend the law relating to the collection of Tolls on boats and vessels passing through certain Canals, Khaals, and Nullahs within the tidal limits of the Bay of Bengal.

CALCUTTA COURT OF SMALL CAUSES.

On the motion of the Advocate General, Mr. Allen and Mr Bullen were added to the Select Committee on the Bill to extend the jurisdiction of the Calcutta Court of Small Causes, and to provide for the appointment of Assistant Judges of that Court

FINES ON VILLAGES FOR OUTRAGES AND TRESPASSES COMMITTED

On the motion of the Advocate-General—Mr Allen, the Honorable Ashley Eden, and Mr. Maitland were added to the Select Committee on the Bill to authorize the imposition of fines for outrages and trespasses committed by inhabitants of villages or members of communities in the Provinces subject to the Government of Bengal.

RULES FOR THE CONDUCT OF BUSINESS

THE PRESIDENT moved that a Select Committee be appointed to consider all proposals which might be made for altering or adding to the Rules for the conduct of business at Meetings of the Council In the Supreme Council, as in the old Legislative Council, they had a Standing Committee for that purpose, and he proposed that the Advocate-General, Mr. Allen, and Moulvie Abdool Lutef be appointed a Committee for the same purpose

The Motion was put and agreed to

The Council adjourned till Saturday the 15th instant

Saturday, November 15, 1862.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding*

T. H. Cowie, Esq., *Advocate-General*,
W. J. Allen Esq.,
The Hon. Ashley Eden,
Moulvie Abdool Lutteef, Khan Bahadoor,
J. N. Bellen, Esq.
W. Maitland, Esq.,
Raja Pertaub Chand Singh,
Baboo Prosonno Coomar Tagore,
and
Baboo Ramgopal Ghose

BABOO RAMGOPAL GHOSE made a solemn declaration of Allegiance to Her Majesty Queen Victoria, and that he would faithfully fulfil the duties of his Office.

IMPRESSMENT OF CARRIAGE AND SUPPLIES

MR. ALLEN, in moving that the Bill to amend the law regarding the provision of carriage and supplies for Troops and Travellers, and to punish unlawful impressment, be read in Council, said, that it would be unnecessary to detain the Council at any length, for he felt persuaded that every Member of it was well aware of the complaints made during the last twenty years, of the oppression, trouble, and difficulty which had arisen under the present system. The Government, both in its Civil and Military Department, had, from time to time, been compelled to issue many orders with a view of abating some of the abuses of the existing system. In the month of January 1857, Sir John Peter Grant introduced a Bill into the late Legislative Council of India, having for its object the mitigation of the inconveniences so greatly felt, but unhappily the mutinies broke out, and that Bill, as well as many other improvements, fell to the ground. Since then the attention of the Lieutenant-Governor of Bengal had been attracted to the subject, and the result was that with his sanction and approval the present Bill had been introduced. The principle of the Bill was that the Military Authorities should be left to their own resources in providing carriage and supplies for the Troops. It was believed by the Government that in ordinary times—times of no disturbance—the Military Authorities were quite competent to carry out all arrangements for the transport of troops without the assistance of the Civil Authorities. That they were competent had been shown in the instance of Her Majesty's 8th Regiment of Foot, which marched from Deesah in the Bombay Presidency to Agra, without requiring any assistance from the Civil Authorities. In times of emergency and danger it might be necessary to invoke the aid of the Civil Authority, and power was reserved in the Bill to enable the Lieutenant-Governor of Bengal, upon application by a Military Authority, to call in such aid. At the same time provision was made that, in such cases, the Civil Authorities should be held responsible that persons impressed were not compelled to go improper distances, and that they should receive full pay, including back hire. In cases where impressment might be found necessary, the new law provided for the protection of those persons who happened to be impressed.

The third Section of the Bill provided for the punishment of revenue or police-officers who made or attempted to make illegal impressment, and any official transgressing the law was liable to a fine of 200 Rupees, or to imprisonment for two months, or to both. Section IV provided that in cases of emergency of Military Officers in command of troops might, by an order of the Lieutenant-Governor, be authorized to require Collectors and Magistrates to aid in procuring carriage, supplies, &c. The Bill further provided that, in case of public disturbance, when troops were suddenly ordered to take the field, and there was no time to apply for an order of Government, and it was impossible, by the offer of double the common rates of hire, to obtain the services of carters, boatmen, bearers, and others, the Collector or Magistrate of the District might, on the written

requisition of a Commanding Officer, resort to impressment, without waiting for any orders of the Lieutenant-Governor authorizing him to do so. It was further proposed by this Bill to repeal that part of the existing Law which authorized Travellers to call in the assistance of the Police to provide them with means of transport, provisions, &c., during their journey; in fact, this part of the Law had been a dead letter for a long time, and in the present state of the Provinces subject to the Government of Bengal, it was no longer necessary to assist Travellers in this manner.

BABOO PPOSONNO COOMAR TAGORE considered that the Bill, with certain modifications which might be made by the Select Committee, would tend to prevent oppression and annoyance of the people, land-holders, farmers, and ryots. Personal experience had taught him the annoyances caused by the passing of troops through his estates, and the loss occasioned by supplying them with provisions, in being obliged to give more than the proper weight, and receive less than the just price. Compliance with the requisition, whether of the Collector or the Commanding Officer, was sometimes attended with great difficulty, from want of consideration as to the nature of the place, or its capability of supplying the articles required. Proprietors of large estates through which troops might pass, halting at different spots, were repeatedly called upon for that purpose. Some proprietors were called upon, while others in the neighbourhood were exempt. The proprietor of a single village, where troops might find it convenient to halt, was required to supply provisions, but probably was quite unprepared to meet the demand, and his annoyance was increased by seeing a land-holder, possessing the neighbouring villages, escape such requisition, however able to assist their poorer neighbours in their difficulty. These were circumstances for the consideration of the Select Committee.

The present Bill repealed certain Sections of Regulation XI, 1806, and modified Regulation VI, 1825. In his opinion it would be far better to repeal the whole of the laws in existence which affected the Provinces subject to the Government of Bengal, and re-enact such Sections (with necessary modifications) as it might be necessary to retain. The Bill was framed in such a form as to require a reference to other Regulations, and again to those referred to in *them*, before any one could arrive at an understanding as to the law on any given point. If his memory served him, it was the desire of the Home Authorities that, when opportunities occurred, they should be taken advantage of by the Legislature to codify the law. That was also the opinion of modern jurists, and he would suggest that instructions be given to the Select Committee to take this matter into consideration.

THE ADVOCATE-GENERAL said that, although the matters referred to by the Honorable Member were well worthy of consideration, he thought they should be left to be dealt with by the Select Committee, and that it was undesirable that any special instructions should be given.

The Bill was then read, and referred to a Select Committee, consisting of the Advocate-General, Moulvie Abdool Lateef, Baboo Prosonno Coomar Tagore, and Mr. Allen, with instructions to report after one month.

SMOKE NUISANCES.

THE HONORABLE ASHLEY EDEN, in moving that the Bill to abate and prevent nuisances arising from the Smoke of Furnaces in the town and neighbourhood of Calcutta, be read in Council, said, this measure has become necessary in consequence of the great number of furnaces which have of late been erected in the town and its immediate neighbourhood, and as there is every prospect of their number increasing year by year as steam power, under the impetus of high wages, displaces manual labor, it is very desirable that early measures should be adopted to check what has already become a serious nuisance, and must, if allowed to continue, have a most injurious effect

on the health of the town. The Bill provides that, within a radius of five miles from the chief Post Office, every furnace now existing, or which may hereafter be erected, shall be adapted or constructed in such a manner as effectually to consume the smoke arising therefrom. There is no hardship involved in the obligation to alter and construct furnaces in such a manner that no visible smoke shall escape. The apparatus is exceedingly simple, and is, moreover, directly beneficial to the owner of the furnace, in so far as it involves a greater development of heat from the fuel burnt, and of course a saving of fuel. There are, I believe, no less than fifty distinct contrivances for effecting this purpose: and by Mr. William's process, which is the one apparently chiefly in use, 20 per cent. more heat is obtained from the fuel than when the fire is left to burn in the usual way, producing the usual volume of smoke All that is necessary is to arrange the furnace so that the black smoke shall be made to pass over living coal, in order that the carbon may be consumed,—or to introduce atmospheric air into the flame-beds of the furnace, by which the same result is produced A reasonable time will be allowed to owners of furnaces to adapt them to the requirements of the Act. In the Bill as it stands the operation of the Act is deferred for two years It will, however, be for the consideration of the Select Committee whether this time may not unobjectionably be shortened to one year. To obviate all chance of litigious prosecution, the Bill provides that no information for the recovery of penalties shall be laid except under the authority of a Magistrate.

The Bill was then read, and referred to a Select Committee, consisting of Mr. Bullen, Baboo Ramgopal Ghose, and the Mover, with instructions to report after one month.

PORT-DUES IN THE PORT OF CANNING.

MR. ALLEN, in moving that the Bill for the levy of Port-dues and fees in the Port of Canning on the River Mutlah, be read in Council, said, now that the Railway was nearly finished, and it became necessary to provide for the expected arrival of ships, the Bill was founded upon the one which regulated the Port-dues in Calcutta. The rates were, in some instances reduced; but the principles of the proposed measure were identical with those of the Bill in force in Calcutta.

The Bill was then read, and referred to a Select Committee, consisting of Mr. Bullen, Baboo Ramgopal Ghose, and the Mover.

REGISTERS OF DEEDS.

THE ADVOCATE-GENERAL moved that the Report of the Select Committee on the Bill to amend the law relating to the appointment of Registers of Deeds, and for the establishment of Deputy Register Offices, be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was carried and the Bill was agreed to without amendment.

On the Motion of the Advocate-General, the Bill was then passed.

The Council then adjourned till Saturday, the 22nd instant.

Saturday, November 22, 1862

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*	Rajah Pertaub Chand Sing,
W. J. Allen, Esq.	Baboo Prosonno Comar Tagore,
The Hon. Ashley Eden,	and
Moulvie Abdool Luteef, Khan Bahadoor,	Baboo Ramgopal Ghose
W. Maitland, Esq.,	

TRANSPORT OF LABORERS TO ASSAM, &c.

THE HONORABLE ASHLEY EDEN, in moving that the Bill to regulate the

Transport of Native Laborers to the Districts of Assam, Cachar, and Sylhet be read in Council, said that he had already, when moving for leave to introduce the measure, explained to the Council the circumstances which, in the opinion of the Government, rendered such a Bill necessary, and that it therefore only remained for him, on the present occasion, to describe the mode in which it was proposed to carry out the object in view. It had been thought better, as far as possible, to adopt the existing machinery to the requirements of the case, rather than, by the sudden introduction of a new principle, to risk the chance of interfering with commercial operations. The system which he now proposed could come into force the moment the Bill passed into law, and the same class of persons now employed in providing laborers for Assam could continue to carry on their operations, with the simple proviso that they must take out licenses, and place themselves under the supervision of a responsible officer of Government. He would briefly describe the course which a Planter would have to adopt in collecting and despatching Coolies to the Districts of Assam, Cachar, and Sylhet. If he intended to collect his own Coolies he would have to take out a license under Section IV of the Act. If he preferred to draw the supply of laborers through the agency of Contractors in Calcutta or elsewhere, then those contractors would be compelled themselves to take out licenses under that section. Any person desiring to recruit Laborers, whether for himself or for a Planter, would have also to take out a license at a small fee which, with the other fees leviable under this law, would be fixed at such a rate as merely to re-imburse Government for the cost incurred in carrying out the provisions of the Bill. Every Contractor would also have to establish depôts to be approved of by a Superintendent of Labor Transport—an officer who would be appointed by Government and whose duty it would be to control the contractors and recruiters and supervise the depôts. A Medical Inspector would also be appointed to examine Coolies before shipment, and the depôts would be open to the inspection of the Medical Officer at all times. After the passing of the Act, it would not be lawful for any person to engage or induce Coolies to emigrate to Assam without a proper license. Section VIII provided that any Superintendent might grant licenses to such persons as he might think fit to act as recruiters, and there was a provision that a scale of fees for licenses might be fixed from time to time by the Government of Bengal, the maximum rate not exceeding 16 Rupees. A recruiter, possessed of a general license, might proceed to any District, and upon his license being endorsed by the Magistrate, he would be empowered to go from village to village and collect laborers. It had also been thought proper that the recruiters should be compelled to wear a badge on which should be legibly inscribed in the vernacular the district or country to proceed to which they were licensed to engage laborers. There might be some opposition to that provision, upon the ground that if Chupprassies wore a badge it would be likely to lead to the belief that the Government was directly interested, and was exercising an influence which it was desirable they should not exercise. At the same time it must be borne in mind that if any one employed by private individuals represented himself to be a servant of the Government, he would fall within the provisions of the Penal Code, and would render himself liable to punishment, while the fact of his wearing a badge would bring a recruiter more under the cognizance of the Magistrate, and enable him more promptly to deal with him. When a recruiter had collected his Coolies, provision was made that they might be compelled to go before a Magistrate, who would see that they understood the nature of their engagement. It would also be the duty of the Magistrate, if satisfied upon that point, to register the names of the laborers in a book to be kept for that purpose, but to refuse to register them if not satisfied. When the recruiter wished to

send the Coolies so registered to any licensed depôt, he would have to give a list of the names to the Magistrate by whom they were registered, who would prepare and sign two copies, one to be delivered to the recruiter, and the other to be sent to the Superintendent of the District in which the depôt was situated; and Section XIII provided a penalty to be inflicted upon any recruiter who acted in a contrary manner. In order to secure proper treatment of the laborers while proceeding to the depôt, Section XIV provided that every batch of Coolies should be accompanied by the recruiter, or by some qualified person approved of by the Magistrate. Section XVII provided that when the laborers arrived at the depôt they should be examined by the Superintendent separately, as to their treatment on the journey, and their knowledge as to the nature of their contract; and he, if dissatisfied with the result of that examination, would be empowered to advance money to send them back to their own country, and to call upon the Contractor for the repayment of the money so advanced. Upon the arrival of Coolies at a depot, the contractor would be bound to give immediate notice to the proper authority, and, as soon as possible, a Medical Inspector would examine them, and see if they were fit for the purpose for which they were engaged. If the Medical Inspector should think the health of any of them not sufficiently strong to warrant their transmission to a distant country, he might compel the Contractor to send them back to the place where they were registered, and on refusal to do so, might advance the funds necessary for that purpose, which would be recoverable from the Contractor. The next step would be to ascertain whether the Coolie fully understood the details of his engagement, and every laborer would be obliged to enter into a written contract, to be explained to him by the Superintendent, to serve for some period not exceeding five years. The term of five years, he might say, had been fixed upon, because it had been felt that a longer period would have a damaging effect upon the labor market, and a most depressing effect upon the laborer. Practically no employer, he thought, would, with reference to the provisions of section 492 of the Penal Code, wish to enter into a contract for more than three years. It was not the intention, or the wish of the Government, to interfere in any way with the labor market or the rate of wages. All that Government wanted was to prevent men being induced to enter into engagements for any very long period of service at a fixed rate in districts of which they could know but little. When the written contract was entered into, it would be fully explained to the Coolie by the Superintendent, and would be signed in duplicate both by the Coolie and by the person with whom he intended to contract. The Superintendent would attest every such contract, and enter an abstract of it in a book to be kept by him for that purpose. The Bill next provided for licensing steamers or boats for the conveyance of coolies, and imposed a penalty for carrying them without a license. Section XXVII entrusted the Master of any licensed steamer or the Manjee of any such boat with some control over the laborers, by providing that no laborer be allowed to leave such steamer or boat at any place other than that mentioned in the Pass, with which the Bill makes it necessary that every laborer should be provided by the Superintendent, before embarkation. There were also provisions for making arrangements at the place to which Coolies might be despatched, for their disembarkation, and for their examination as soon as possible by a Medical Officer, on the requisition of the Magistrate under whose supervision they were landed, and a report was to be forwarded by those officers to the Superintendent. It would be also the duty of the Magistrate to give notice to the Planter, who had engaged the services of the Coolies, of their arrival: and the Planter, would be bound to take immediate charge of them and provide for their welfare, and if he neglected to do so the

The Honorable Ashley Eden

Magistrate might advance a reasonable sum for that purpose, and might recover the same from the Planter. The 35th Section of the Bill provided for the supply on Board Boats and Steamers carrying Coolies, of good and wholesome provisions, and a sufficient number of Medical Officers, cooks, and other attendants: and by the next Section it was provided that there should be a proper proportion of females in every batch of Coolies. By the 37th and following Sections Magistrates through whose Districts Boats might pass, were empowered to stop them and examine into the condition of the laborers, and see that the provisions of the Act had been complied with, and, if not, to detain such Boats or Steamers for as long a time as it might be necessary. Magistrates also, if they deemed it advisable in cases of violent sickness among the Coolies on a journey or on Board any Boat or Steamer, would have the power of stopping, for as long as might be necessary, their further progress, the expenses so incurred being recoverable from the recruiter or contractor. It was to be observed that this bill only applied to laborers, and not domestic servants, nor did it apply to such laborers as were travelling on their own account with their families to the Districts of Assam, Cachar, or Sylhet, or to any number of labourers less than ten proceeding together to those Districts without the intervention of a recruiter or of a contractor. It seemed that the practice had sometimes existed of deducting certain instalments from the wages of laborers, with a view of making them re-pay the amount of expenses incurred on their account prior to their reaching their destination. By the present Bill all such deductions were strictly prohibited under a penalty of two hundred Rupees for each offence. Such were the main provisions of the present Bill which he thought was one well worthy of the consideration of the Council, and he begged to move that it be now read. As tending to show the importance of the measure, he would observe that the land taken up for Tea cultivation in Assam alone would, if rendered productive, give 30 millions of lbs. of Tea per annum, or half the total quantity now imported into England from China. The only impediment in the way of this land, and twice as much again, being productive, was the want of labor, an evil which it was the object of this Bill to remedy.

MOULVY ABDOOL LUTEEF thought that the proposed measure was very proper and very much called for. There was great propriety in the interference of Government in a matter which daily concerned the welfare of thousands of its subjects. These Coolies were required, and induced to leave their homes and travel hundreds of miles to labor in fields as strange to them as Demerara might be to an Englishman or Melbourne to a Frenchman. During the passage their safety against ill-treatment in every sense was undoubtedly a subject for deep and anxious concern to Government, and he grieved to express his conviction that, under the present arrangements for transporting Coolies and other laborers to the plantations of the North East, that safety was not a paramount consideration. Instances were on record of gross disregard of the comforts of the men, and sometimes of the conditions necessary to the preservation of life. There were laws regulating the transport of laborers from India to America and the French Colonies by sea; and exactly the same reasons existed for legislative action for regulating the transport of Coolies from one part of India to another by land or by water. But not only was interference necessary in the interests of humanity. From every quarter to which capital had penetrated for developing the resources of the country, there was the same cry for want of labor. No doubt the duty of Government was to facilitate the supply of labor to the Tea Planters of Assam. But how should it be done? Not by fitful attempts to encourage Coolie immigration, according to the requirements of the moment. The only way was to render it a safe, easy, and comfortable thing

to all concerned, to secure to the Coolie just rights and fair treatment on his way to his destination, and to remove the dread attaching to the anticipated sufferings of the "middle passage." Suppose the Coolie population in their native villages were made acquainted with the regulations which provided for the wants of immigrants on their first journey. The direct consequence would undoubtedly be an increased desire to immigrate. Labor would be had not only more readily and easily, but in all probability, more cheaply also. It appeared, therefore, that in proposing to legislate on this subject they had a two-fold object, to protect ignorant and helpless men during a time when they must be in the hands of others, and to encourage Coolie immigration, by making its conditions favorable to the immigrant.

Mr. MAITLAND thought that the introduction of a measure of this nature was of the utmost importance. He was aware that some persons held the principle, that the matter might be safely left between the employers of labor and the employed, as self-interest would lead to a fairer adjustment. He himself could not see why the same principles which had been adopted for Sea Emigration should not be applied to Inland Emigration. He did not intend to trouble the Council with many remarks, but he wished briefly to refer to one or two subjects in connection with the Bill. He thought that some misapprehension might exist as to the present state of mortality amongst the Coolies. It was stated in the Statement of Objects and Reasons that the mortality in one instance had been as high as 50 per cent., but it was only fair that attention should be drawn to another passage in the report. In speaking of the depot of Mr Bennertz, the Committee said—

"This establishment we visited. It is situated in Sealdah, near the Canal. It is at present in size adapted only to the requirements of an incipient business, but it nevertheless afforded us evidence of intelligent appreciation of the wants of the emigrants, and the most diligent care for their wellbeing. Notwithstanding the short time that it had been established, the little depot had either in completion or in immediate prospect all the arrangements that long experience could have suggested. A native doctor (from the Medical College) resident on the spot, attended to the medical duties, including the selection of the laborers. Mr Bennertz himself, also resident among the people, attended to every detail of general management. Good and sufficient dwelling-sheds were constructed. Separate bathing and drinking tanks were on the spot, and a dietary and clothing in all respects well chosen were provided under his immediate direction."

Returns which were published in the Annexure also showed how small the mortality had been under the system which the report of the Committee stated to have been adopted by Mr Bennertz. It was a well-known fact that the majority of the persons interested in this question, among whom he might include himself, was strongly in favor of some intervention on the part of Government which would remedy the present state of things. There was one other point to which he wished to call the attention of the Council. It was provided by the Bill that recruiters should wear a badge. He should like to see some such provision applied to persons who engaged laborers to go to Demerara or the Mauritius, because he believed many laborers entered into engagements to go to those places without having any idea where they were going. He would also suggest that, as in the case of the Bill affecting the Municipal arrangements of Calcutta, the Select Committee to whom the Bill would be entrusted should be instructed to take additional evidence.

THE ADVOCATE-GENERAL did not quite remember the circumstances, but thought that in the case of the Bill referred to by the Honorable Gentleman, no specific instructions to take further evidence had been given to the Select Committee. Additional evidence had been brought before that Committee,—and he need not say how great its value was,—but it was purely voluntary, and he had little doubt that, in the present instance, also a good deal of fresh evidence would be voluntarily

Moulvy Abdool Luteef.

laid before the Committee. He himself entirely approved of the principle of the Bill, reserving to himself the right of commenting upon its details at the proper time. The principle upon which he thought the Committee ought to act, was to endeavor, as far as possible, to protect the laborer, while interfering as little as possible with the free action of the labor market. He did not think that the present Bill went too far, and the principle of it was right

MR MAITLAND explained that he did not wish special instructions to be given to the Select Committee; the meaning which he had intended to convey was that if it were publicly known that such a Committee was sitting, experienced persons would voluntarily come forward and tender information.

THE HON'BLE ASHLEY EDEN made some remarks in reply to what fell from Mr Maitland.

THE PRESIDENT need hardly say that the Bill was one which met with his cordial support. The subject had been brought to his attention very particularly a short time back, when he was in Cachar It appeared to him that, in that district, there was a unanimous opinion among the Planters that some legislation with regard to the supply of laborers was absolutely necessary, and that in Assam also the same was the case Opinions might differ as to the degree to which Government ought to interfere, but there seemed to be almost perfect unanimity of opinion that some interference was necessary. He quite agreed with the learned Advocate-General that their object should be to give full protection to the Coolies, with as little interference as possible with the rights of the employers of labor. With regard to what had been said as to extending the provisions of the Bill to laborers recruited for places beyond Sea, he would remind the Council that the subject of foreign Emigration had been taken up by the Supreme Legislature, and that there were good reasons for that course. It must be remembered, in the first place, that recruitment took place not only in Bengal, but in the North-Western Provinces for which this Council had no power to legislate, and secondly that foreign emigration took place from other Presidencies as well as from Bengal. It would give rise to great confusion if there were to be any difference of system affecting persons connected with the emigration of Coolies by sea from the different Presidencies. In this Bill, indeed, there was this defect, that though recruitment for the Eastern Districts was carried on in the North-Western Provinces, the Bill if it became law would not be in any way binding there. He had no doubt however that the Government of the North-Western Provinces would co-operate with the Government of Bengal in the matter, and, therefore, notwithstanding the difficulty to which he had referred, it had been thought advisable to introduce the present Bill.

The Bill was then read in Council and referred to a Select Committee, consisting of the Advocate-General, Moulvie Abdool Luteef, Mr. Maitland, Baboo Prosonno Coomar Tagore, and the Mover

The Council adjourned to Saturday, the 6th December

Saturday, December 6, 1862.

PRESENT

His Honor the Lieutenant-Governor of Bengal,

Presiding

T. H Cowie, Esq., *Advocate-General*,	A T T Peterson Esq.,
W J Allen, Esq.,	Rajah Pertaub Chund Singh,
The Hon Ashley Eden,	Baboo Prosonno Coomar Tagore,
Moulvie Abdool Luteef, Khan Bahadoor,	and
J N Bullen Esq.	Baboo Ramgopaul
W Maitland, Esq.,	Ghose.

CALCUTTA PORT DUES

MR ALLEN moved that the Report of the Select Committee on the Bill to amend Act XXX of 1857 (for the levy of Port-dues and fees in the Port of Calcutta) be adopted and the Bill withdrawn. The Bill had been brought in at a time when the sum derived from Port-dues was not considered sufficient to defray the neces-

sary expenses of the Port. Since that time, however, by order of the Viceroy, the Mooring Fund had been added to the Port Fund, and at present the amount thus raised appeared sufficient to pay all expenses. Under these circumstances, the Committee did not consider that it would be advisable to proceed with the Bill, and he begged to move that their Report to that effect be adopted, and that this Bill be withdrawn.

MR. BULLEN said that, when the Bill was originally introduced, he had expressed considerable doubt as to the necessity for it. The accounts which had been furnished to the Council proved the accuracy of the opinion which he had then expressed. The Mooring Fund ought never to have been separated from the Port Fund. It was now quite clear that the two funds were together amply sufficient to defray all charges, and, under those circumstances, there was no necessity for proceeding with the Bill. He merely rose to express his gratification at finding that no new burden need be imposed upon the already heavy burdened shipping interests of Calcutta.

MR. PETERSON said that he had not been on the Select Committee to whom the Bill had been referred, but he remembered the doubt as to its necessity which had been expressed by the Honorable Gentleman who had spoken last. He himself believed that the Port of Calcutta was already fifteen shillings a ton dearer than any other Port in the East. He did not find fault with those who had brought forward the Bill. The real blame rested with those who had all along had charge of the accounts. What had occurred showed how necessary it was, in the case of any money Bill, that accounts should be strictly analyzed, and that the Select Committee should have an opportunity of examining the Accountants who had prepared them. One reason on account of which he made that observation was that, during the present Session, the Council would probably be called upon to legislate for the Finances of the Town of Calcutta. He wished to point out how necessary it was that Members should be in possession of the very fullest information before dipping their hands into the pockets of their fellow-citizens.

MR. MAITLAND cordially concurred with what had fallen from the Honorable Member near him (Mr. Bullen). Leave had been given to introduce the Bill on the statement that it was absolutely necessary. The real state of the case appeared to be that, some thirty years ago, for some reason with which he was not acquainted, the Mooring Fund had been separated from the Port Fund, and the former had proved a most lucrative source of Revenue, no less than seven lakhs having accumulated. In consequence, however, of the Mooring Fund not having been taken into account along with the Port Fund, it had been supposed that on the Port Fund account there was a deficit of three and half lakhs, while the real fact was that there was a surplus, if the two accounts were taken together, as they manifestly ought to be. There was no necessity at present for entering into the matter: but as one interested in the Trade of the Port, he ventured to express a hope that the Port-dues would not only not be increased, but that they might in process of time be lowered.

The Motion was put and agreed to.

FINES ON VILLAGES FOR OUTRAGES AND TRESPASSES COMMITTED.

THE HONORABLE ASHLEY EDEN moved that the Select Committee on the Bill to authorize the imposition of fines for outrages and trespasses committed by inhabitants of villages or members of communities in the Provinces subject to the Government of Bengal, be discharged and the Bill withdrawn. The Bill had been introduced into the Council nearly a year ago, under the impression that a state of things existed in the interior of the country which called for such exceptional legislation. How far this conclusion was justified by actual facts it would at present be profitless to discuss. But a sufficient period had

elapsed to show that there was nothing now which would call for or justify a measure of so exceptional a nature, whatever might have been the case when the Bill was originally introduced. The Lieutenant-Governor of Bengal was primarily responsible for the state of the country, and he was in fact in a better position than any one else could possibly be to form an opinion as to whether the powers with which he was already vested were sufficient to maintain the peace of the country and provide for the security of property The Lieutenant-Governor was satisfied that the existing state of things would not justify him in asking the Council to arm him with such powers as would be given by the present Bill He begged therefore to move that the Select Committee be discharged, and the Bill be withdrawn.

MR PETERSON thought it would be useless now to raise a discussion upon the principles of the measure But as one of the supporters of the Bill upon its introduction, he declined to stultify himself by voting for the present motion. It was quite true that the Lieutenant-Governor was responsible for the peace of the country, but it must be remembered that, since the introduction of the Bill, there had been a change of Lieutenant-Governors He knew that the Lieutenant-Governor had the power to put his veto upon any Bill adopted by the Council, and therefore it would be useless to oppose the present motion. It appeared, however, to be admitted by the Mover that when the Bill was originally introduced, a necessity for it existed ; No! No! from Mr Eden) Well, the introduction of the Bill showed that such was the opinion of the majority of the Council, and he had a right to assume that, if a necessity existed then, it might occur again, and if so, legislation might be now necessary. He retained the opinion which he had expressed when the measure was first brought forward. Although it might be called exceptional legislation, he could produce cases innumerable of exceptional evils which required, and had been met by, exceptional remedies. He would only add that he did not recede one iota from the position he had originally taken up.

Mr. MAITLAND did not rise to oppose the Motion, but he wished to place upon record his opinion upon a subject which appeared to him one of great importance. When the Bill was brought in, he had expressed an opinion that the measure was a beneficial one, and that opinion he still entertained As he had said, he did not intend to oppose the present Motion, because he presumed that it was made with the sanction of the Executive Government, and with them must rest the responsibility He wished, however, to call the attention of the Council to one or two circumstances connected with the manner in which the Bill had been introduced, because he believed that a necessity might arise for the introduction of a similar one. The Bill was originally introduced on the 22nd March by Mr. Fergusson, and the Council was then informed that cases of injury being inflicted were of frequent occurrence, and that some measures were absolutely necessary to check them On the 29th March the Bill was read and referred to a Select Committee by a majority of nine to two. Not only had the Bill the support of the majority of that Council, but it had also received the sanction of five gentlemen eminently qualified to form an opinion upon such a subject The Commissioners of Burdwan, of Chittagong, of Akyab, and two other Commissioners, had expressed an opinion that the measure would be a most beneficial one and their late colleague, Baboo Ramapersaud Roy, had expressed a strong opinion that the Penal Code was not sufficient to meet all the cases of injury and violence which took place Further still, and to this he attached more importance, the principle of the Bill was in entire accordance with the law which prevailed at Home He himself felt very strongly upon the subject, for he believed that the Bill would have proved a beneficial one, and he regarded it as being one of a highly just, reasonable, and equitable character. On a previous occasion an honorable gen-

tleman opposite had raised an objection to the Bill, on the ground that it would make the innocent suffer for the guilty. Now he held that, without some such law, the innocent must suffer with the guilty. If property were destroyed, and no means were provided of obtaining compensation, it must be clear that, in the majority of the cases, it would be the innocent who would suffer He did not think it would be necessary for him to say more, but he could not sit down without expressing a hope that, although it appeared that the time had not arrived for passing a Bill of this nature, it would not be long before a law of a similar kind would be again introduced It appeared to him to be a simple and righteous maxim, that, where a wrong had been done, and the perpetrators of it could not be discovered, those persons who might reasonably be supposed to have had it in their power to prevent its commission should be held responsible for it. He could only regret the abandonment of the measure.

THE ADVOCATE-GENERAL said that it was not his intention, on the present occasion, to discuss the principles of the Bill, or the value of the opinions on so important a subject, which had been printed as annexures to the Bill. One word, however, he must say, not having had the opportunity of doing so before He must say that he entertained a very strong opinion in opposition to the principle of the Bill—a principle which he had no hesitation in declaring received no countenance from anything in English law. It appeared to him that the course which the Council was then called upon to adopt was a proper course If a Bill of a similar nature were to be introduced into the British Parliament, it would be introduced as a Government measure: and if during its progress through the House the Executive Government should no longer see the necessity for it, it would, upon a statement to that effect being made by one of the Ministry, be at once abandoned. It did not appear to him that, by consenting to the course now proposed, any Honorable Members who might have expressed opinions favorable to the principles of the Bill, in any way resiled from what they had said, or abandoned the position which they had taken up. The Bill was originally brought in by the then Executive Government, who deemed it necessary to preserve the peace of the country. The present Executive Government, in the exercise of its discretion, and being best qualified to form a judgment upon such a subject, entertained the opinion that, at all events at present, no such necessity existed Under the circumstances he cordially supported the Motion

THE PRESIDENT would ask the indulgence of the Council, whilst he said one or two words in reference to this Bill, as the matter was somewhat personal to himself. It would be remembered that, towards the end of last Session, he had expressed to Honorable Members, not from his place in Council, but privately, the doubts which he entertained as to the propriety of passing such a measure He had stated to several Members in conversation that he should be glad of the opportunity which the recess would afford of making enquiries in the country, and satisfying himself as to whether any necessity existed for such an exceptional piece of legislation. Accordingly, he had spent a large portion of the recess in travelling about the country, and had made enquiries of all those persons who he thought would be able to afford information, and whose opinion seemed deserving of weight He had asked such persons in many parts of the country what their opinion on this subject was, and he might say that, from all classes without exception, he had received the assurance that whatever might have been the case a year ago, there was now no necessity for such a measure Many persons indeed thought that there never had been any such necessity, but all were agreed upon this point, that even if the grounds upon which the project was based were good and sufficient grounds a year ago, the altered state of things rendered such an act unneces-

sary at the present time. He had always entertained doubts upon the subject, and those doubts had been fully confirmed by all that he had seen and heard in the country during the period which had elapsed since the Council met last Session. Having then come to the conclusion that such a Bill was not necessary, and as responsible for the peace of the country, feeling that he did not require for its preservation any such legislation, he had to consider what course it would be proper to take. It had been suggested by an honorable and learned Member that it was in his power to allow the Bill to be passed, and then refuse his assent to it. He was aware that he possessed that power, but in his opinion it was a power which ought to be exercised with great care and under a deep sense of responsibility. If when a Bill were passed by that Council, the Lieutenant-Governor thought proper to refuse his assent to it, he would place himself in a position of antagonism with his Council, and that was a position which it was extremely desirable to avoid. He had felt it obviously his duty to raise the plain question, whether the Bill should be proceeded with or not, and he had suggested that this should be done by a Motion that the Committee be discharged, as that seemed to be the course most in accordance with the Rules of the Council. He was far from wishing to exercise any undue influence over the opinion of any Member of that Council, whether official or non-official, and he desired that every measure brought forward should receive the fullest possible consideration. In following this course, he considered that he was doing what was most becoming the position which he had the honor to hold, and now he left the matter in the hands of the Council.

The Motion was put and agreed to.

TRANSPORT OF LABORERS TO ASSAM, &c.

On the Motion of Mr. Maitland, Mr. Peterson was added to the Select Committee on the Bill for regulating the Transport of Native Laborers to the Districts of Assam, Cachar, and Sylhet.

The Council then adjourned till Saturday, the 20th of December.

Saturday, December 20, 1862.

PRESENT.

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

W. J. Allen, Esq.
F. H. Lushington, Esq.
The Hon. Ashley Eden.
Moulvy Abdool Luteef Khan Bahadoor,
J. N. Bullen, Esq.
W. Maitland, Esq.
A. I. P. Peterson, Esq.
Rajah Pertaub Chand Sing,
Baboo Prossono Coomar Tagore,
and
Baboo Ramgopaul Ghose.

PASSENGER BOATS.

MOULVY ABDOOL LUTEEF, in moving that the Bill to provide for the registration and supervision of boats carrying passengers for hire, be reconsidered, said that the Bill was one which had been taken into consideration by the Council on the 8th of last month, when it was found that, as amended by the Select Committee, it varied very materially from the Bill as first introduced. On that account, it had been thought proper to postpone the passing of the Bill in order that it might be published in the *Calcutta Gazette*, so that the public might have an opportunity of considering it. That had been done, and he begged to move that the Bill be reconsidered.

BABOO PRSONNO COOMAR TAGORE said that the Bill, as amended by the Select Committee, went a great deal further than had been originally intended. Under Section III, its provisions extended to boats carrying passengers long distances, and that was surely not the object of the original Bill. As he understood it, the measure was originally introduced as a kind of Police Act similar to the Act for the regulation of Boats carrying passengers from the East to the West side of the river within the limits of the Port of

Calcutta. He thought the Bill was one which required a great deal of consideration before it was passed.

MR. PETERSON said that he was not present when the Bill was brought forward, but he submitted, with great confidence, that to reconsider the Bill would be to give a great deal of unnecessary trouble. The mischievous character of such measures had been shown in the Shipping Registration Act, and he could see no necessity for the proposed legislation. In a large metropolis, where steam boats were constantly plying, and also multitudes of small boats carrying passengers, some measure for their regulation might be advisable, but a Bill that went beyond that point was wholly unnecessary. He thought that the Bill ought not to be proceeded with.

MR. MAITLAND was inclined to think that some such Bill would be desirable, but, at the same time, there could be no doubt that the Bill, as amended by the Committee, went much further than was originally intended. The original Bill was introduced for the purpose of regulating the employment of Boats carrying passengers for hire as a regular branch of business, and was in its character similar to the Bill for regulating Ships carrying Coolies. It frequently happened that persons employed a Boat, which did not regularly ply for hire, to carry them for a few annas from one side of the river to the other, and, under the Bill as it at present stood, the Manjee might, in such a case, be liable to a fine of fifty Rupees. In his opinion the third Section ought to be altered, and he thought it would be, on the whole, desirable to send the Bill back to the Committee.

MR. ALLEN entirely agreed with the Honorable and learned gentleman opposite (Mr. Peterson) that no such Bill was required. He believed that not only was there no necessity for the Bill, but that it might give rise to great oppression.

THE HONORABLE ASHLEY EDEN thought the Bill ought not to be further proceeded with, if the Council were of opinion that it was unnecessary. As the Bill at present stood its provisions could not be enforced without extreme inconvenience and much oppression, and it would, perhaps, be better that it should be withdrawn. He begged to move, by way of amendment, that the Bill be withdrawn.

THE PRESIDENT entirely agreed with the amendment proposed. The original intention, in bringing forward the Bill, was a good one: but it appeared to him that the particular measure was not supported by sufficient facts or information. The character of the Bill had been so altered by the Select Committee, that there was only one of two courses for the Council to adopt either to refer the Bill again to a Select Committee, or to withdraw it, and if they found any real cause for legislation on the subject, to begin *de novo*. Another objection to the Bill was that it placed the registration of these Boats in the hands of the Magistrate. That might have been very well at the time the Bill was proposed, because then the Magistrate was virtually the Chief Officer of Police but since then, the provisions of Act V of 1861 had been extended to several Districts in the Lower Provinces, and they were being extended to others, and it appeared clear to him that now the proper person to register and regulate the Boats would be, not the Magistrate, but the Chief Officer of Police. This was another reason for not proceeding with the Bill in its present shape.

The amendment, that the Bill be withdrawn, was then put and agreed to.

CALCUTTA MUNICIPAL COMMISSIONERS AND CONSERVANCY BILLS.

THE PRESIDENT said that it had been his intention to move that the Honorable Mr. Eden be added to the Select Committee on the Bill for appointing Municipal Commissioners, and the Bill for the Conservancy of the Town of Calcutta. He thought that it would have been advisable that there should be on the Committee an Officer of the

Government able to devote his whole time to the consideration of the question, and to assist the Committee in coming to some conclusion with regard to it. He understood, however, that it was the general sense of the Committee that it would be advisable to make a report recommending the withdrawal of the present Bills, on the ground that they were not suited for the object they had in view: and it was proposed that, upon their being withdrawn, the Government should introduce some new measure, and commence afresh. He could not state decidedly upon what principle the new Bill would be framed, but it would be upon one which he hoped would meet with the concurrence and approval of the Council. With the understanding to which he had referred, he thought it would perhaps be better not to increase the Committee, but to leave them to make their report, and, in the mean time, to consider and come to a decision as to the kind of legislation necessary.

The Council then adjourned to Saturday, the 3rd January 1863.

Saturday, January 3, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General*	A. T. T. Peterson, Esq.,
W. J. Allen, Esq.,	Baboo Prosonno Coomar Tagore,
E. H. Lushington, Esq.,	and
The Hon. Ashley Eden,	Baboo Ramgopal Ghose.
Moulvy Abdool Luteef Khan Bahadoor,	

CALCUTTA MUNICIPAL COMMISSIONERS, AND CONSERVANCY, BILLS.

THE ADVOCATE-GENERAL,—in moving that the Report of the Select Committee on the Bill for appointing Municipal Commissioners for the Town of Calcutta, and for levying rates and taxes in that town, and the Bill for the Conservancy and improvement of the Town of Calcutta, be adopted, and the Bills withdrawn,—said, that it might at first sight appear a somewhat unsatisfactory result, that, after so many months had elapsed, and after a careful and protracted enquiry, the report of the Committee should only recommend the withdrawal of the Bills. When the measures were first introduced some observations had fallen from the Chair, the exact words of which he would not quote, but which in substance amounted to this, that the Select Committee should not consider themselves limited by the terms of the Bills, but that they should use their own discretion in making such alterations as they should deem desirable. After that announcement the Committee entered into an enquiry, not limited to the practicability or desirability of the particular scheme proposed, but which extended to the consideration of what might really be the most satisfactory mode of settling the Municipal affairs of the Town of Calcutta. He believed that all the Members of the Committee agreed that, as regarded the particular scheme proposed, not only would the Bills be utterly impracticable and unsatisfactory in their results, but there was also this preliminary difficulty, that it would be almost impossible to light upon fit machinery whereewith to carry them into effect. The question had been raised whether the Committee, in their Report, should submit to the Council their views as to the most desirable mode of legislating for the Municipal arrangements of the town. It had ultimately been found, however, that such a Report would have only conveyed the individual views of each Member, or, at any rate, of a majority and a minority of the Committee, and he doubted whether a Report of such a nature could have been legally or properly made under the existing Rules for the Conduct of Business in the Council. Moreover, he was not quite sure that it would be regular for a Select Committee to go beyond the particular

scheme entrusted to their consideration, and to report upon any proposal which had not been committed to them by the Council. Under these circumstances the Committee had thought it better to confine their report to a recommendation that the Bills be withdrawn. The public interests would not suffer by this course having been adopted, as he believed a Bill was in course of preparation, and indeed in a state of considerable forwardness, which he hoped would prove generally satisfactory.

THE HON'BLE ASHLEY EDEN could assure the Council that no time would be lost in laying before them a Bill which was at present in course of preparation for regulating the Conservancy and Municipal arrangements of the Town of Calcutta. It was no easy matter to frame a Bill which would give satisfaction to all parties, but he might state that the general principle of the proposed measure would be to vest in the Justices of Calcutta, as representatives of the rate-payers, a general control over the government of the town, leaving the executive administration in the hands of a single officer responsible to the Justices. Under such an arrangement, if it should turn out that any work was not carried on in a proper manner, there would be no difficulty in fixing the responsibility, and any evil or error could very soon be rectified. It was clear that all responsibility which was divided must be unreal and impossible to enforce.

MR PETERSON begged leave to say a few words upon the subject, having been a Member of the Select Committee, although indeed, owing to business having called him out of the country, he had not been able to take any part in the consideration of these particular measures. He quite concurred with what had fallen from his learned friend, (the Advocate-General) that all proposals of a Select Committee anticipating legislation were entirely irregular. In the present case, moreover, the Committee could not at the eleventh hour make any special Report, or give any hint as to the course which ought to be adopted. He was the more confirmed in that opinion from the unsatisfactory nature of the evidence taken before the Committee. No two persons seemed to have been of the same minds. It would be desirable if they could obtain a free expression of opinion upon a question of so much importance, both with regard to the direction of taxation and the means available for raising the necessary funds. They had as yet, with the exception of one witness, no evidence before them on these points. Unfortunately for that Council they did not appear to have any power of compelling persons to attend before the Select Committees to give evidence, and although he was aware that you might take a horse to the pond but you could not make him drink, still he thought it might be desirable, in many cases, that the attendance of persons qualified to give evidence should be rendered compulsory. He was very glad to find that, as far as the constitution of the governing Municipal body was concerned, some definite result had been arrived at, and that, as regarded that branch of the question, before many days a settlement would be arrived at. When, however, they had obtained a governing body, the difficulty would arise as to what they were to operate upon. The greatest care should be taken that no advantage should be thrown away which the town of Calcutta ought to possess. He might refer the Council to the modes adopted for lighting for the supply of water, and for other Municipal purposes in Glasgow, Liverpool, or Paris. He would, however, omit the latter town, as he had observed a tendency on the part of the Committee to admire every thing that was French. France presented no doubt a splendid shell, but there was a great deal that was very rotten under the crust. In his opinion, they might safely follow in the wake of Glasgow, Liverpool, or Manchester. In those towns the means which nature had provided had been improved by the labor of man. As was the case in those towns, so the Municipality of Calcutta ought to have the water supply, the lighting, and every thing of a similar character in its own

The Advocate-General

hands. It might be said that the course he suggested would have the effect of taxing trade more than it was at present taxed, but he did not believe that such would be the practical result. He hoped that evidence would be taken with a view of ascertaining what was the position, and what were the prospects of the town, without having recourse to Imperial assistance, because he must say that the objected to assistance being rendered by the State in matters which ought to be the work of individuals. Situated as this country was, it ought to be the care of Government to place affairs in such a position that the population should do every thing for themselves, and that Imperial subsidies should be as small as possible. He hoped that the measure about to be introduced would be of such a nature that the Council would not be forced to patch it up session after session by a series of Bills to accomplish what might easily be settled in the first instance.

The Motion was then agreed to.

SMOKE NUISANCES.

THE HON'BLE ASHLEY EDEN moved that the Report of the Select Committee on the Bill to abate and prevent nuisances arising from the Smoke of furnaces in the town and neighbourhood of Calcutta be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee. The Committee had not made any material alteration in the Bill as read in Council. They had, however, slightly altered the limits within which the Act would have effect. It appeared to them better to adopt limits already well ascertained, as were those of the Suburbs and the Station of Howrah as defined in Act XXI of 1857, than to establish a new circle with a radius of five miles from the Post Office, the precise position of which would not be generally or easily known. They had made the words used in Section 1 more general so as to include all works and buildings used for the purposes of trade or manufacture, but they had not thought it advisable to extend the provisions of the Bill to Railway Locomotive Engines or to Steam Vessels, except in the case of the latter when they were used as Ferry Boats within the limits of the Town or Suburbs. It had been felt that Railway Locomotives were not likely to run through populous portions of the town, and upon the whole, it had been thought advisable to exclude them from the operation of the Act. Eighteen months would, in their opinion, be ample time within which the necessary apparatus might be applied to such furnaces as were not already fitted with it, and they had therefore changed the date on which the Act was to come into operation from the 1st of January 1863, to the 1st of July 1864.

The Motion was put and agreed to.

Section 1 provided that furnaces in the town and suburbs of Calcutta should consume their own smoke, an exception being made with regard to any Locomotive Engine used wholly upon any Railway, and with regard to any steam vessel not employed as a ferry boat plying from any one place within the town and suburbs to any other place within those limits.

After one or two verbal amendments made on the motion of the Advocate General, the words "in charge of such furnace" were inserted after the word "occupier" in the 27th line. In order to define precisely the persons who were liable to penalties under the Section; and the words "nor less than twenty Rupees" were omitted, as it was not usual to fix by law the minimum amount of fine, which was left to the discretion of the adjudicating officer.

THE PRESIDENT then drew the attention of the Council to the exception proposed by the Select Committee to be made in favor of Locomotive Engines. He apprehended that they had in view such Engines as were running upon lines already in existence, and which had their termini

in the Suburbs of Calcutta. Within the last few days, however, he had given his sanction, so far as it was necessary, to connecting the terminus of the Eastern Bengal Railway at Scaldah with the River, by a line of Rails passing through one of the principal through-fares in the native portion of the town. Locomotives would be employed on this line. They would run at a very moderate rate of speed so as not to endanger passenger traffic, but at the same time, unless the engines were compelled to consume their own smoke, they might become a serious nuisance to those residing in the neighbourhood He would therefore suggest to the Council the propriety of limiting the exception to engines on lines already in existence,—to engines not coming within the town of Calcutta.

MR. PETERSON deprecated any measure which would, in any way, interfere with or retard the construction of Street Railways. If they became a nuisance, he was satisfied that the strong arm of the law could be put in force by the Advocate-General, and that the nuisance could be put a stop to. For his own part, he was sure that there were many other nuisances uncomplained of that were far greater than the smoke from a good wholesome engine-funnel.

THE ADVOCATE-GENERAL considered that if the Act were passed in its present shape, there would be great difficulty in proceeding, either by indictment or information, to put down nuisances caused by Locomotives running within the limits of the town. That difficulty might be met by limiting the exception to Locomotive Engines used wholely in the suburbs, and he begged to move that words so limiting it be introduced.

BABOO RAMGOPAL GHOSE entertained some doubts as to what the effect of the words proposed to be introduced would be, if the town of Calcutta were extended beyond its present limits, which it very likely would be.

THE ADVOCATE GENERAL thought that the doubt expressed by the Honorable Member was without foundation. It could never be supposed that any extension of the limits of the town should have a retrospective effect.

The amendment proposed by the Advocate-General was then agreed to, and the Section passed.

Section II was agreed to.

Section III was passed after verbal amendments

Sections IV, V, and VI were agreed to.

On the motion of Mr. Peterson, the following words were added to Section VII.—

"All penalties to be levied under this Act shall be disposed of in such manner as the Lieutenant Governor of Bengal from time to time shall direct."

The Preamble and Title were agreed to.

PORT DUES IN THE PORT OF CANNING

MR. ALLEN moved that the Report of the Select Committee on the Bill for the levy of port-dues and fees in the Port of Canning on the River Mutlah be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee The Committee had made but two alterations in the Bill They had changed the word "SIXTY" in the next to the last line of Section III, into "ninety." SIXTY days was rather too short a time to allow, as there were some short coasting voyages which occupied more than SIXTY days, the vessels making which voyages ought, in their opinion, to have the benefit of the provisions of Section III. In Section VII they had changed the date on which the Act was to come into operation from the 1st of January 1863, to the 1st of August 1863. They had named August, because they had found that, in a Government Notification dated the 6th of February 1857, fixing the rates at which Port-dues were to be levied in the Port of Mutlah, it had

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been announced that the Government would not alter those rates without giving six months' notice. By postponing the operation of this Act till August, they had ensured full notice being given in accordance with that Notification.

The Motion was carried, and the Bill was agreed to without amendment.

On the Motion of Mr. Allen, the Bill was then passed.

The Council adjourned till Saturday, the 17th January.

Saturday, January 17, 1863.

PRESENT.

His Honor the Lieutenant-Governor of Bengal, *Presiding*

T. H. Cowie, Esq
Advocate-General,
W. J. Allen, Esq.,
E. H. Lushington, Esq.,
The Hon. Ashley Eden
Moulvy Abdool Luteef Khan Bahadoor,
A. T. I. Peterson, Esq.,
Baboo Prosonno Coomar Tagore,
and
Baboo Ramgopal Ghose.

SMOKE NUISANCES.

THE HON'BLE ASHLEY EDEN moved that the Bill to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta be brought forward and passed

THE ADVOCATE-GENERAL moved that in the last Section the words "and Act XLVIII of 1860" be inserted after the words "Act XIII of 1856."

The Motion was agreed to, and the Bill was passed.

CHITTAGONG DISTRICT.

THE HON'BLE ASHLEY EDEN moved for leave to bring in a Bill to amend the Schedule annexed to Act XXII of 1860 (to remove certain tracts on the Eastern Border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts). That Act was passed in consequence of the disturbed state of certain Hill Tracts in the District of Chittagong, and inadvertently it had been made to include a large number of persons who did not properly belong to those Hill Tracts at all. Those persons resided in the surveyed portion of Thanna Teknaaf, and the object of this Bill was to restore them to the jurisdiction of the ordinary tribunals.

The Motion was put and agreed to.

MUNICIPAL GOVERNMENT OF CALCUTTA.

THE HON'BLE ASHLEY EDEN, in moving for leave to bring in a Bill to provide for the Municipal government of the Town of Calcutta, said: I need not refer in any detail to the proceedings which have already taken place in this Council in connection with this question. Several propositions have been before us, none of which, however, were considered to be capable of practical application. There appear to be two distinct sets of opinions as to the best means of securing an efficient Municipal government for the Town:—*First*, there are many who seem to think that those who pay the taxes have a right, through their representatives, to decide definitely all questions connected with the expenditure of those taxes, and they consider that this expenditure will be more efficiently and satisfactorily supervised by thirty-six unpaid, irresponsible volunteers than by any one man. They think that public spirit is sufficiently strong in Calcutta to ensure that these volunteers shall really devote to Municipal affairs that considerable portion of their time which would really be absolutely necessary to prevent things coming altogether to a dead-lock. *Secondly*, there are those who hold an entirely opposite opinion, who say that it would not only be impossible to get thirty-six volunteers to carry on the work of the Municipality, but that not even six men would be found ready to sacrifice any reasonable portion of their time for the good of the public. They say that the European residents who understand and appreciate

representative administration are too busy to take any part in local administration in this country, and that the native residents neither understand nor appreciate any thing of the sort. The remedy which they suggest is to hand over the Municipal government of the Town to one responsible Officer, free from all control except that of Government. Now, were the question narrowed down to an absolute choice between these two extremes, I should, I must admit, be disposed to prefer the latter mode of Government. But, in fact, we are not in any way reduced to a Selection of either of these alternatives, and it appears to Government that there is a possibility of so combining these two schemes as to take what is good out of each, and adapt it to the particular state of things with which we have to deal. There can, I think, be no question that any attempt to establish any sort of representative Municipality must fail in Calcutta. There are peculiarities connected with the population of this City which exist no where out of India. Of the native population it may be readily admitted, that there are few, if any, who would really take any active part for any length of time in detailed local government, and it is no reproach to them that this is so, for, looking at the past history of the country, it would be curious indeed were it otherwise. Then of the European population, my own experience leads me to doubt whether, if they were put to the test, there would be a single man who would come forward and pay attention, day by day, to the executive administration of the affairs of the Town, and were it otherwise, I am quite satisfied that a large body of unpaid volunteers, however much they might be disposed to do for the Town, would be the most inefficient and unsatisfactory body which could be devised. Let the controlling body be large as it may, we must, to secure efficiency, have some one individual responsible for the executive administration. To divide responsibility between thirty or forty men would, in fact, be to dispense with it altogether, and the evil is not much lessened if, instead of thirty men, we take six men, for actual tangible responsibility could not exist much more in one case than the other. What is done or neglected to be done by a Council of more than one man is, in fact, the act or omission of no one in particular, and the blame attaching to a collective body is very little cared for by any of the Members of that body individually; and, in the same way, so long as credit is shared equally by the active and the idle Members of a Council, there is really no incentive whatever for any of the Councillors to exert himself beyond his fellows. Anything like the retention of any executive representative Board seems, therefore, wholly out of the question. But if we are not yet ready to manage our own municipal affairs, there is no reason why we should not become so hereafter, and it is clearly the duty of Government to lead on the citizens of this town to take a due share in its management if this can be done, and this Bill has therefore been framed with the object of entrusting intelligent gentlemen, chosen from amongst the rate-payers, with a very considerable control over the Municipal Government of the town, and at the same time providing that the work of the Municipality shall not be liable to interruption or delay from any omission on their part to attend to their duties. We proposed to vest the general control of municipal expenditure in a considerable body, trusting the execution in detail of all sanctioned works to one well paid Officer, who shall devote his whole time and energy to the work. This it is proposed to do, by making the Justices of the Peace of the Town of Calcutta a body corporate. Care will be taken that all classes, official, non-official, European, and native are suitably represented. The Government will then nominate to the office of Chairman of the Justices an energetic and experienced officer. At the commencement of each year, the Chairman will submit to a meeting of the Justices a budget of the expenditure which he proposes for the ensuing year, and the

The Hon'ble Ashley Eden

rates and taxes which he proposes to impose for the purpose of meeting this expenditure. The Justices will, after careful consideration, pass, modify, or otherwise alter either the amount which it is proposed to expend or the details of expenditure. They will then determine the amount of rates to be levied within the limit fixed by the Legislature When the budget has been passed by the meeting of Justices and has received the sanction of the Lieutenant-Governor of Bengal, it will be left to the Chairman to carry out the sanctioned works. To assist the Chairman, to whom it is proposed to assign a salary not exceeding 3,000 Rupees per mensem, there will be a Vice Chairman and Town Clerk, receiving a salary not exceeding 1,200 Rupees per mensem, who will preside at the Meetings of the Justices during the unavoidable absence of the Chairman The Chairman is to have the power of calling meetings of the Justices whenever he may desire to lay before them any questions of importance, and any five Justices, exclusive of the Chairman, and Vice-Chairman, will form a quorum Any ten Justices may, at any time, submit to the Chairman a requisition for a Meeting of the Justices, to consider any matter connected with the Municipality If the Chairman neglects or refuses to call the Meeting the ten Justices may issue the requisite notice detailing the particular points for discussion The Chairman will be nominated by Government, as there are obvious reasons why this should be done, rather than there should be anything like an election of the Chief Executive Officer, though, doubtless, the Lieutenant-Governor, in making his selection, would, as far as possible, consult the wishes of the Justices The Chairman will be removeable on a requisition to Government signed by two thirds of the Justices resident in Calcutta. The Vice-Chairman is to be appointed and removed by a Resolution of two-thirds of the Justices The Chairman will be assisted by an efficient professional staff, consisting of an Engineer, Surveyor, Health Officer, and Assessor, to be appointed and removed by the Justices. All other Officers to be appointed and removed on the responsibility of the Chairman, but where the salary exceeds 200 Rupees, the confirmation of the Justices will be necessary. The Justices might appoint special Committees to advise the Chairman in regard to particular works. Provision will also be made for taking a periodical census of the population, and for establishing a system of registration of births and deaths. The Bill will, at the same time empower the Lieutenant-Governor, should he see fit so to do, to place the Police Administration under the Chairman of the Justices It would take up the time of the Council needlessly to describe, on the present occasion, the details of the Bill: all that is desired is their permission to bring in a Bill based on these principles. When the Bill is actually before them, there are many questions, in addition to the form of Municipal government, which will demand their earnest attention Such, for instance, as the provision of funds It has been roughly stated that the sum which it is necessary to provide for the carrying on of the Municipal and Conservancy requirements proper, is twelve lakhs of Rupees per annum; and, in addition to this, a further sum of eleven lakhs will be required for paying the interest on the loans which it will be necessary for the Municipality to raise for the completion of the great works of drainage and water-supply, and other improvements. Seeing that our present Municipal revenue amounts to less than eleven lakhs, including the one per cent income tax, the prospect seems at first gloomy, but the citizens of Calcutta must make up their minds that if they want a proper system of conservancy and town improvement they must pay for it, for without funds the most perfect Municipal constitution which could be devised would be utterly useless. If they keep this fact well before them, and determine to have that which they have so persistently and so rightly demanded, then I see no difficulty in procuring

ample funds. Many modes of raising these funds suggest themselves, and it will be for the Council to determine which they will accept. We must, I am satisfied, try our utmost to avoid asking for the surrender of any portion of the imperial revenue to be employed in local improvements; certainly we are likely to get no such grant until, at least, we are in a position to show that we have done all we can to supply the deficiency from local taxation. It must be recollected that Government already contributes largely in the shape of rates for Government buildings, and that we are not called upon to pay one farthing for the support of our police, though there is not a town, however small, in the interior, which is not made to bear the expense of watching, as well as conservancy; and all, I think, that the town can ask of Government is that it should give up to it, for Municipal purposes, the whole of the Strand Bank. This would be a very legitimate and reasonable request, and certainly it is only right that this bank should be made over to the town rather than to any other body; it is, the fact, now held by Government in trust for the town. The revenue now derived from the bank is something like Rupees 10,000, but with a judicious outlay in wharves, jetties, and ghauts, the power of making which will be vested in the Municipality by this Bill, it is certain that a very large revenue would be derived. If wharves were constructed capable of accommodating the whole of the shipping of the port, and a town wharfage duty of only one Rupee per ton was charged, we should have at once a revenue of 13½ lakhs of Rupees. The present charges of landing and shipping, irrespective of loss by pilfering and breakage, being 2 rupees and 1 rupee 8 annas: this would benefit the trade and the town at the same time. But even without the erection of wharves, I think the town is clearly entitled to take some small wharfage fee for all goods landed on the bank, and a rate of 4 annas per ton would at once give us 3 lakhs of Rupees. Then again, if the Bank of the Canals is in the same way made over to the town, a small wharfage fee may be taken for all goods landed from the interior. But on the whole, I am disposed to think that the best way of making the inland traffic contribute to the Municipal funds will be by imposing a small extra toll on all boats, in addition to the ordinary canal and river tolls, which shall be collected by the existing establishment. Then, if necessary, I see no reason why we should not have a moderate license tax on all shops, stalls, and pedlars. The lower classes literally contribute nothing directly or indirectly to the town revenues, and it is very desirable to reach them by some such measure as a Municipal shop tax of a few Rupees per annum. In addition to this, much more may be made of our existing taxes by altering the manner of collection. Owing to the present complicated system of assessment on annual valuation, half the native huts in the town remain unassessed up to the present time. It is proposed to substitute a fixed house tax for native houses, calculated on the space they occupy. We also propose to make the assessment of brick houses triennial, instead of annual. The horse and carriage tax is evaded to an enormous extent, and it is proposed to remedy this by making the payment of the tax compulsory on a certain day by means of registry and license, and double duty in the event of non-payment after a certain date. I do not mean to say that it will be necessary to impose all these taxes at once. I merely desire to indicate large and unobjectionable sources of revenue, which may be resorted to if necessary, and until they are exhausted, we cannot, I think, justify the present disgraceful state of the town on the plea of poverty, neither can we apply for any share of the Imperial Revenue.

MR. PETERSON would not express any opinion as to the scheme which had been sketched out by the Honorable Member, but he wished to make one remark with regard to the time which the Council would have for the consideration of the Bill. It was very desirable that the Members of the Council should have ample time to

make themselves acquainted with the details of the measure, so that they could be fully discussed when the Bill would be read. He did not think that the burden should be thrown upon the Select Committee of framing a new Bill. He by no means regretted the time that had elapsed since a Bill on the same subject had been introduced into the Council, because he was very happy to see that a great many Members had come round to the views which he had expressed at the time. At the reading of the Bill he thought that it would be very desirable that the clauses of it should be fully discussed, for the work of the Committee would be greatly facilitated by their having an expression of the opinions of the Members of the Council with reference to the details of the measure. He should suggest that at least ten days be allowed for its consideration.

THE ADVOCATE-GENERAL said that, by the Rules as they at present stood, a motion that a Bill be read in Council might be made not less than three days after printed copies had been in the hands of Members. That, however was a minimum period, and did not in the least fetter the time being extended to ten days, or any other period sufficiently long to enable the Members of Council to make themselves acquainted with the details of any Bill introduced. He himself, on the present occasion, would, like his learned friend, not attempt to offer any opinion upon the Bill, the objects of which had been so clearly stated by the Honorable Member who had moved for leave to introduce it.

The Motion was then put and agreed to.

RULES FOR THE CONDUCT OF BUSINESS.

THE ADVOCATE-GENERAL, who had a notice on the paper to move that the Report of the Select Committee appointed to consider proposals for amending or altering the Rules for the conduct of Business at Meetings of the Council be taken into consideration and adopted—said, that as two Members were unavoidably absent, who took a great deal of interest in the matter, and who wished to have an opportunity of appearing in their places, and taking part in the discussion, he had no objection to postpone his motion. There was one subject, however, with regard to which he was desirous of making an observation. It had been suggested by the Members he referred to, that the Report and amended Rules should be published. Now, he was quite at a loss to see what possible good could be gained by their publication: and the existing Rules made no provision for the publication of a Report of this nature. A similar Report recently made by a Select Committee of the Governor-General's Council was never published, and the Rules which had lately been adopted by the Governor General's Council, had diminished the amount of publication of the Reports of Select Committee of that Council. The Report to which his motion related, was upon the Rules for the conduct of the Business of the Council, and it was for the Members of the Council, and for them alone, to come to a decision with regard to them. It seemed to him, and he did not say it disrespectfully, that it was a subject with which the public had nothing to do. The whole matter rested with the Council itself: and while agreeing to the postponement of the motion for the consideration of the Rules, he thought it right to take the opportunity to state that he objected to their publication.

THE HON'BLE ASHLEY EDEN expressed his entire concurrence with the view expressed by the Advocate-General. There did not appear to him to be any necessity for publishing this Report, which referred merely to proposed alterations in the Rules for the conduct of Business.

MR. PETERSON wished to say that he fully agreed with what had fallen from the last two Members who had spoken. The matter was essentially one to be dealt with by the Members, and not by the public.

The consideration of the proposed alterations was then postponed.

PUBLIC CONVEYANCES IN CALCUTTA AND THE SUBURBS

MOULVY ABDOOL LUTEEF moved that the Report of the Select Committee on the Bill for regulating Public Conveyances in the Town and Suburbs of Calcutta be taken into consideration, in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

Sections I and II were agreed to.

Section III was passed with verbal amendments.

Sections IV, V, and VI were agreed to.

Section VII being read—

THE HONORABLE ASHLEY EDEN moved that the Registration fee should be increased to three Rupees.

The amendment was agreed to, and the Section as amended was passed.

Sections VIII to XIV were agreed to.

On Section XV, which provided that a fee of eight annas should be paid for every license granted to act as driver, being read—

MR. PETERSON said he considered the amount too small; by increasing it, they would get a better class of men, and he moved as an amendment that the sum be fixed at two Rupees.

The Motion was agreed to, and the Section as amended was passed.

Sections XVI to XIX were agreed to.

Section XX being read—

MR. PETERSON said that the Section had reference to the fares set forth in Schedule A. Now he thought those fares were disproportionate, and far too much in favor of cab proprietors. The fare of second class carriages for going one mile was exactly double what cab hire was in London, and it was well known that the keep of a horse in this country did not exceed 20 or 23 Rupees a month, while in London it amounted to not less than three pounds. When Schedule A came to be discussed, he should have a great deal more to say upon the subject of fares; at present he would only say that, after every stopping, there would be a first mile, and the fare appeared to him to be much too high. If the Council were not prepared to fix the rate of fare, it would be better, he thought, to leave it to the Lieutenant-Governor of Bengal to do so.

BABOO PROSONNO COOMAR TAGORE concurred in the opinion of the honorable and learned member. Wages and the price of food were constantly fluctuating, and he thought it would be very advisable that it should be left to the Lieutenant Governor to fix annually the rate of fares.

THE ADVOCATE-GENERAL, as a general rule, was entirely for leaving executive matters of detail in the hands of the executive Government, and that was the principle upon which the Council very much acted. In a matter of this kind, however, in which the public were so immediately concerned, he thought it desirable that the fare should be fixed in the most authoritative manner. If that were not done, the executive Government would be placed either in hostility with the owners of hackney carriages on the one hand, or with the public on the other. If the fare were fixed too low, with the former, and if too high, with the latter. In his opinion, every alteration made might give rise to numerous disputes which it would be as well to avoid. With regard to Schedule A., when he first looked at it, he had been under the impression that the insertion of eight annas for the first mile was a clerical error, and that the fare intended was six annas: for the principle had been to fix rates of fares for second class carriages at double the rate for third class carriages. He was informed by the Secretary that it was not so, but in his opinion six annas would be a sufficient fare.

THE PRESIDENT said that the Council was perhaps a little out of order in discussing Schedule A, when

the question really before them was, whether they should have a fixed rate of fares, or whether it should be left in the hands of the Executive Government to fix them. He was of course perfectly ready to accept any responsibility which might be cast upon him: but, at the same time, he quite concurred with the Advocate General, that it would be far better for the Council to fix a rate of charges. It was perhaps true that the drivers here were not so formidable a body of men as the drivers in London, still it would of course be well for the Government to avoid a collision with them. He would urge upon the Council the expediency of passing the Section as it was, and leaving the rates to be settled when Schedule A came to be discussed.

BABOO RAMGOPAL GHOSE thought that it would be desirable to have a Schedule of fares fixed from time to time by the Municipal Commissioners

MR. ALLEN considered six annas for the first mile quite sufficient remuneration.

The HONORABLE ASHLEY EDEN then moved the addition of the following words to the Section:—

"Provided also that nothing in this Act contained shall prevent any driver or owner from being bound by any contract, into which he may enter, to receive payment at a rate lower than that fixed by this Act."

THE ADVOCATE-GENERAL opposed the motion, on the ground that it was opposed to the whole scope and spirit of the Bill. The object of the measure was to settle definitely with regard to second and third class carriages what fares should be paid, and he thought the proviso, if agreed to, might lead to innumerable disputes. A Magistrate might be called upon, in almost every case, to decide, not only a question of time and distance, but also whether there had been a private contract,—which he considered would be very undesirable.

MR. PETERSON entirely dissented from the doctrine laid down by his learned friend, as interfering with freedom of private contract. He himself had been in the habit for weeks of hiring a gharry at the rate of two Rupees a day, but if no such proviso were added to the Clause, he would be compelled to pay three Rupees when the driver himself asked only two. He considered the proviso necessary for the successful working of the measure.

BABOO RAMGOPAL GHOSE supported the motion.

THE PRESIDENT said that the object of the Act was to prevent extortion on the part of the owners of Public Conveyances, and he could see no objection to persons making private arrangements as proposed. If there were a number of carriages on the Stand, why should not a person be allowed to ask the driver of each what he would take him for, and choose the lowest offer. He thought the amendment a very proper one, and he should give it his support.

The motion was then agreed to, and the Section as amended passed.

On Section XXI (providing that the owners of hackney carriages of the second and third class, should have exposed on their carriages, in the English, Oordoo, and Bengallee languages, a tariff of charges) being read—

THE HONORABLE ASHLEY EDEN moved the omission of the word "Oordoo."

The motion was negatived, and the Section was passed as it stood.

Sections XXII, XXIII, and XXIV were agreed to.

On Section XXV, requiring the owner of a registered carriage to let it when called upon to do so, being read—

MR. PETERSON thought there should be some distinct definition laid down as to what was meant as plying for hire. A person might have horses in his stable, and might not like sending them out on a very hot or a very wet day, and he thought that some strict definition should be laid down.

THE ADVOCATE-GENERAL considered Section XXV to be one of the most important Sections in the Bill. The very illustration employed by his learned friend, confirmed that view, for it was upon a very hot or very wet day that

persons most required carriages, and the Bill would be almost useless unless the owners of carriages were compelled to let them when required to do so. He could see no difficulty in carrying out the provisions of the Section, for, if a carriage were in the street, the driver in charge would be liable, and if it were in the stables, the owner would be so.

The Section was then agreed to.

On Section XXVI being read—

THE ADVOCATE-GENERAL said that as the attendance of his learned friend and himself was required in Court, he must move that the further consideration of the Bill be postponed.

The Motion was agreed to, and the Council then adjourned to Saturday, the 31st January.

Saturday, January 31, 1863.

PRESENT:

W. J. Allen, Esq. *Presiding*

E. H. Lushington, Esq. | Baboo Prosonno Coo mar Tagore,
The Hon. Ashley Eden, | and
Moulvy Abdool Luteef Khan Bahadoor, | Baboo Ramgopal Ghose
W. Maitland, Esq.,
Rajah Pertaub Chand Sing,

CHITTAGONG DISTRICT.

THE HON'BLE ASHLEY EDEN moved that the Bill to amend the Schedule annexed to Act XXII of 1860 (to remove certain tracts on the Eastern Border of the Chittagong District from the jurisdiction of the Tribunals established under the General Regulations and Acts) be read in Council.

The Motion was agreed to, and the Bill was read.

REMUNERATION OF COURT PEONS.

THE HON'BLE ASHLEY EDEN, in moving for leave to bring in a Bill to amend the law relating to the employment and remuneration of Peons for the service and execution of the process of the Civil Courts, said that the object of the Bill was to amend the law relating to the employment and remuneration of Peons for the service and execution of Civil process in the Courts of the Lower Provinces in Bengal. The Code of Civil Procedure, as amended by Act XXIII of 1861, Section 2, declared that "every process required to be issued under the Code, should be served at the expense of the party at whose instance it was issued, unless otherwise specially directed by the Court, and that the sum required to defray the costs of such service should be paid into the Court before the process was issued, within a period which should be fixed by the Court issuing the process." The Code however did not contain any rules for the appointment of the Peons to be employed in the service of the processes of the Civil Courts, or for regulating the charges for such service, or for the remuneration of the Peons employed on this duty, and the Sections of the Regulations and the Act which the Bill proposed to amend, continue to be the rule of guidance in all matters which related to the appointment and remuneration of the persons so employed to serve the process of the Civil Courts. Under the law at present in force, the Nazirs of the Civil Courts were allowed to appropriate to their own use, in addition to any fixed salaries received by them, one-fourth of the subsistence or diet money deposited for the services or execution of every process, the remaining three-fourths being paid to the Peon employed to serve or execute the process. It was proposed to substitute for this system one under which the fees should be funded and made available for the improvement of the judicial establishments generally,—the Nazirs being paid fixed salaries. The change had already been introduced in anticipation of an expected Legislative Enactment, and had been found to answer well.

The motion was put and agreed to.

The Advocate General

PUBLIC CONVEYANCES IN CALCUTTA AND THE SUBURBS.

MOULVY ABDOOL LUTEEF moved that the further consideration of the Report of the Select Committee on the Bill for regulating Public Conveyances in the Town and Suburbs of Calcutta, in order to the Settlement of the Clauses of the Bill, be postponed.

The Motion was put and agreed to.

The Council adjourned to Saturday, the 14th February.

Saturday, February 14, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*
W J Allen, Esq.,
I H Lushington, Esq.
The Hon Ashley Eden
Moulvy Abdool Luteef Khan Bahadoor,
W Mantland, Esq.,
W Moran, Esq.,
Rajah Pertaub Chand Singh,
and
Baboo Prosonno Coomar Tagore

REMUNERATION OF COURT PEONS.

THE HON'BLE ASHLEY EDEN, in moving that the Bill to amend the law relating to the employment and remuneration of Peons for the service and execution of the process of the Civil Courts be read in Council, said that there was a Bill of a similar nature before the Council of the Governor-General. There was, however, this difference between the two Bills, that the one rendered the system of funding fees compulsory, while by the other it was optional. The other Bill vested the power of making rules from time to time in the High Court, but the present Bill placed that power in the hands of the Lieutenant-Governor, who would, however, in all probability, consult the Judges of the High Court before exercising it.

MOULVY ABDOOL LUTEEF begged to second the motion of the Honorable Member, for such a Bill was called for by the necessity for establishing some reasonable proportion between the emoluments received by the Nazirs and Peons of the Civil Courts, and the duties performed by them. When he spoke of reasonable proportion, he had in view the remuneration allowed to other Officers of the same Courts, with duties and responsibilities just as great, if not greater. Under present arrangements, so highly trusted an Officer as the Serishtadar must always be in every Court, received nothing in pay or allowances like what was received by the Nazir. It frequently happened that the Nazir managed to realize from the fees of his office an income greater than that of the presiding Judge. Such an anomaly called for remedy, and in this sense he voted for the proposed Bill being read in Council.

The Bill was then read and referred to a Select Committee consisting of the Advocate General, Moulvy Abdool Luteef, Baboo Prosonno Coomar Tagore, and the Mover.

RULES FOR THE CONDUCT OF BUSINESS.

THE ADVOCATE GENERAL, in moving that the Report of the Select Committee appointed to consider proposals for amending or altering the Rules for the conduct of Business at Meetings of the Council, be taken into consideration, said that the Council perhaps remembered that this motion had stood upon the paper at the meeting before last of the Council. In consequence, however, of his understanding that it was the wish of some Honorable Members who were then unable to be present, to take part in the discussion, he had postponed the motion until now.

MR. MAITLAND begged to move the following amendment—

"That, in the opinion of this Council, the Report of the Select Committee appointed to consider proposals for amending or altering the Rules for the conduct of Business at Meetings of the Council, together with the Rules as proposed to be altered by the Committee, be published in the Government Gazette before such proposed alterations be taken into consideration."

He himself, as well as his honorable friend (Mr. Bullen), had been unable to attend at the meeting of the Council when the Report of the Select Committee was first brought forward, and he much regretted that his Colleague was unable to attend on the present occasion. He might, however, state that the views entertained by his honorable friend as to the expediency of publishing the Report of the Select Committee entirely coincided with his own. Before offering any observations on the motion, he had to thank the Council, and especially the learned Advocate-General, for the courtesy, he might also say the justice, they had shown in agreeing to postpone the consideration of the Report of the Select Committee. He had been requested by his honorable friend to state, that he had seen the amendment which he now proposed, and that he entirely concurred in it. For his own part, he was strongly of opinion that, before a matter of so much importance was taken into consideration, it was most desirable that full publicity should be given to it, in order that the public might be acquainted with the alterations proposed by the Committee. He observed in the report of the meeting of the last Council, that the learned Advocate-General was made to say, and no doubt correctly, that he could not see what good could possibly be gained by the publication of the Report of the Select Committee. He found also that the honorable and learned gentleman was supported in that view by two other honorable members; but notwithstanding the formidable phalanx arrayed against him, confiding in the goodness of his cause, he did not fear to confront it. There was one matter which he wished to point out to the members of the Council, and to the Advocate-General, who seemed to desire to draw a parallel between the present motion and what had taken place in the Council of the Governor-General. The honorable and learned gentleman had stated, that the Report of the Committee appointed to consider the Rules for the Conduct of Business in the Council of the Governor-General had never been published. Now that statement was technically correct; but the Advocate-General had omitted to point out that, although the alterations in the Rules were not officially published, they were nevertheless made public in a most effectual manner. He held in his hand a report of what took place in the Council of the Governor-General on the 3rd of December, when His Excellency himself, who had taken charge of the Report of the Committee, entered into full explanations of the alterations proposed. It was not, however, until the 17th of December, that the matter was taken into consideration, and, in the interval, ample publicity was given to the alterations proposed by the Committee, both by comments in the newspapers and by other means. Now what had taken place with reference to the alterations proposed in their own case? A Select Committee had been appointed to consider the Rules for the conduct of Business; that Committee presented a Report, proposing certain alterations, and the Report itself was printed on the 9th of January, and it was in the hands of Honorable Members on the 10th. A Meeting of Council took place on the 17th, and then one item in the List of Business was the adoption of that Report. According to their Rules, before such a motion could be made, it was necessary that the Report should have been in the hands of Honorable Members for seven days, and, in point of fact, it was literally so neither more or less: but, as regarded the public, no opportunity had been afforded them, beyond perhaps seeing from the programme that there was to be a discussion about the Rules, of becoming acquainted in any way with what alterations were proposed. Now he begged entirely to differ from the learned gentleman who advocated the doctrine, that the proposed alterations of the Rules should not be made public. He was, of course, aware that the alterations more immediately concerned the Council itself, but at the same time he trusted that nothing would ever be done in that Council in which the public were not

Mr. Maitland

interested. Among the proposed alterations there were two or three which he considered not only of great importance to the Council, but also to the public, and one alteration, specially so. By the old Rules it was necessary that the Council should sit once a year, but in the amended Rules that provision was left out altogether, and it was left entirely to the discretion of the Lieutenant-Governor for the time being whether the Council should sit at all. He was aware that, at present, the power of adjournment *sine die* vested in the President, gave him great power over the meeting of the Council, and he did not think that, under the new Rules, His Honor would *not* call a meeting of the Council annually, but still in principle the alteration was an important one, and a right of this kind at present enjoyed by the Council should not be lightly abandoned. There were other changes also of great importance. The old Rules, for instance, provided that when a Bill was passed, half of the Members and the President should be present, but in the new Rules that provision was omitted, and the change, whether for good or evil, was, no doubt, a very important one. If the Advocate-General was at a loss to understand what possible good could be gained by the publication of the new Rules, he, on the other hand, would ask what possible harm would arise from the adoption of that course? He felt very strongly upon the point, and would urge in justice to the public that this Report should be published. It should ever be borne in mind, that it was owing to the force of a wise and enlightened public opinion, that the principle of an open Council had been adopted, and that what were called "outside" Members sat in it at all. He saw, among the papers connected with this subject, a petition from the British Indian Association, in which an opinion was expressed that ample time should be given for the consideration and discussion of all legislative enactments brought forward in that Council, and although he, in some respects, dissented from the general views advanced by that body, in that opinion he entirely concurred. [The Honorable Member here read extracts of the Petition.] Believing, as he did, that the alteration of the Rules materially concerned the public, he thought that every possible publicity should be given to the Report of the Select Committee, and he had therefore brought forward this amendment.

THE HONORABLE ASHLEY EDEN thought that if the honorable gentleman considered the publication of the Report of the Select Committee a matter of so much importance, it was much to be regretted that he had not earlier moved the amendment which he now proposed. If the Honorable Member had been unable to attend the Meeting the day when the Report was first put in the List for consideration, which was now four weeks ago, it was very much to be regretted that he did not at least make his motion at the Meeting which took place a fortnight ago, and at which the Honorable Member was present. The question had now remained in abeyance for one month, and he entertained a strong objection to its remaining so any longer. The Rules drawn up by the Select Committee did not affect any principle with regard to which an expression of public opinion could be desirable, or of any great value. They simply related to details for the guidance of that Council, and he could not think that, with regard to details of such a nature, there was any necessity to give the public an opportunity of expressing an opinion. It was true that His Excellency the Governor General had described at some length the amendments and alterations of the Rules proposed by the Select Committee of his own Council; but that he did not do so for the purpose of inviting public discussion, was evident from the fact that the amended Rules were presented to the Council before the public had any opportunity of discussing the matter at all. He had no desire to keep the public in ignorance of what alterations were proposed, and no doubt the Advocate-General would give any

necessary explanation upon the subject; but with regard to coming to any decision on the matter, that rested with the Council alone. In the Governor-General's Council, the rule was, that the Reports of all Select Committees on Bills should, in every case, be published; and they were accordingly always published. But when the Council came to revise its Rules for the conduct of Business, and to report upon certain proposed amendments, so little was this Report supposed to fall under the same head as Reports on Bills, that it was never published at all. In this Council, the rule was, that reports on Bills in general should not be published; although, in special cases, they might be so by order, not of the Council, but of the President. In the Governor-General's Council, the rule was in favor of publication generally, yet the Report on the Rules for the conduct of Business was held not to fall within it. In this Council, the Honorable Member contends that an exactly opposite principle should be adopted, and that, although our Rules are unfavorable to publication, as a general rule, an exception should be made, and that this Report should be published.

MR. MORAN would not enter into any of the details of the proposed alterations, but he wished to express his opinion that there was nothing which took place in that Council which was not of sufficient interest to the public to render it expedient to afford an opportunity for the expression of public opinion. He certainly would support the amendment.

MR. LUSHINGTON begged to support the original motion. The original Rules had never been published in the Gazette, and he could see no reason why the proposed alterations should be so published before being taken into consideration by the Council.

MOULVY ABDOOL LUTEEF said, that he should oppose the amendment for the reasons which had already been urged by previous speakers.

THE ADVOCATE-GENERAL said that it appeared to him that there was perhaps something of a fallacy in

the confusion which had been made between the undoubtedly true proposition that the public had an interest in all the proceedings of the Council, and the proposition really involved in the amendment, which was, that the consideration of the Report of the Select Committee on the Rules for the conduct of Business in the Council, was a matter which ought to be submitted to the public in the same way as any proposed Act. The two propositions were, however, entirely distinct. The reason why all measures which affected the public were published, was partly that due intimation might be given of the intended change, so that the public might not be taken by surprise, and partly that such suggestions might be invited, and such information obtained, as might be afforded by practical and experienced men. Neither of those considerations, however, could in any way apply to the publication of the Report of the Select Committee upon the Rules. What they were now engaged upon, was not any alteration of the law as affecting the public generally. They were merely dealing with Rules which affected the course of their own deliberations. It was a question with regard to which it was not possible that any useful suggestions could emanate from anywhere but the body of the Council, for they and they alone would be bound by the proposed Rules. The Members of the Council and they alone, from their experience of the working of the Rules as they stood, were in a proper position to decide to what extent they ought to be altered or not. Upon the ground therefore that any alteration of the old Rules did not amount to an alteration of the law as affecting the public, and also upon the ground that it was not to be expected that any useful suggestion would arise from public discussion, he should oppose the amendment. He was not quite sure whether the Honorable Member founded his amendment upon the intrinsic importance of the amendments themselves, or upon the general principle that all alterations should be made public. But whichever way he put it, he should

oppose it upon the general principle which he had stated. As regarded the importance of the amendments themselves, he took a view different from that taken by the Honorable Member, but he would have a better opportunity of stating that view in the event of their being allowed to proceed to the consideration of the new Rules.

The amendment was then put, when the Council divided as follows:—

Ayes 3.	*Noes* 7.
Rajah Pertaub Chand Singh.	Baboo Prosonno Coomar Tagore.
Mr. Moran.	Moulvy Abdool Luteef
Mr. Maitland.	Mr. Lushington.
	Mr. Allen
	The Honorable Ashley Eden.
	The Advocate-General.
	The President.

The amendment was accordingly lost, and the Council proceeded to the consideration of the new Rules

THE PRESIDENT said that it would perhaps be convenient to consider the rules in the form recommended by the Select Committee, and to adopt the practice usually followed in considering the details of a Bill, and proceed rule by rule.

Rule I was agreed to.

Rule II being read—

MR. MAITLAND moved that the words "There shall be at least one Session of the Council in the year," which had been struck out by the Select Committee be added to the rule.

MR. ALLEN could not see any necessity for their retention; it was not at all probable that the Lieutenant-Governor would fail to avail himself annually of the assistance of the Council, and upon him rested the responsibility of summoning it.

THE PRESIDENT said, that as perhaps the Honorable Member was aware, that the Secretary of State objected to the use of the word "Session," he would consent to change it into the word "Meeting."

MR. MAITLAND had no objection to do so. He had no more fear than the Honorable Member who had spoken, that the Lieutenant-Governor would not call a yearly sitting of the Council; but the proviso appeared in the old Rules and he saw no good reason for striking it out.

THE HON'BLE ASHLEY EDEN thought, as regards the amendment, there could be little objection to a proposal of so homœopathic a nature. At the same time he considered the matter might as well be left in the hands of the Lieutenant-Governor. The Council was intended to aid and assist the Lieutenant-Governor in making laws, and not to direct and control him, and clearly the Lieutenant-Governor was more competent than any one else to say when and how often he required this assistance.

THE PRESIDENT had not the slightest objection to the amendment, but he would be entirely guided by the sense of the Council upon the subject.

The Council then divided as follows:—

Ayes 3.	*Noes* 7.
Mr. Moran	Baboo Prosunno Coomar Tagore.
Mr Maitland.	Rajah Pertaub Chand Singh.
The President.	Moulvy Abdool Luteef.
	Mr Lushington.
	Mr Allen.
	The Honorable Ashley Eden.
	The Advocate-General.

The amendment was accordingly lost, and the Rule agreed to.

Rules III to XLIV, which were substantially identical with the old Rules, were agreed to.

On Rule XV being read—

MR. MAITLAND moved that the following words, which had been struck out by the Select Committee, be introduced after Clause 2:—

"At this stage, on motion made to that effect by way of amendment, the Bill may be referred to a Select Committee with special instructions to revise it in any manner prescribed. If this course be adopted, the Select Committee, after revising the Bill as instructed, shall report the revised Bill to the Council as soon as may be. After receiving this Report, a motion may be made in usual course that the Bill, as so revised, be read in Council."

He thought it was very desirable that they should have the power to refer a Bill to a Select Committee to alter it generally, or in a particular way, and he could not see the object of depriving themselves of that power. Cases might arise in which it would be found very useful, and it was to be remembered that the Council was yet in its infancy. He remembered on one occasion, (he believed it was in the case of the Rent Bill) that an Honorable Member had moved that the Bill be referred to a Select Committee with special instructions to alter the Bill in a particular way. Although that motion was unsuccessful, there could be no harm in the Council reserving to itself the power which it possessed, under the existing Rules, of referring a Bill to a Select Committee with special instructions to revise it in a manner prescribed by the Council.

THE ADVOCATE-GENERAL believed that, in point of practice, there had not been a single instance in which special instructions had been given to a Select Committee to revise a Bill in a particular way. He begged pardon; he was reminded that, in the case of the "House of Correction and Great Jail Bill," special instructions had been given to the Committee to strike out a particular Clause which it appeared was somewhat in excess of the jurisdiction of the Council. The object of a Bill being read in Council was to obtain the concurrence of the Council in the general principle of the measure. But if the frame-work of the Bill were objectionable or imperfect, it ought to be withdrawn by the Mover, and brought in in a proper shape after being remodelled. This had been the ground upon which the Select Committee proceeded in striking out the words of the old Rule: and, in his opinion, it was much more desirable that any honorable member introducing a Bill should be responsible for its frame-work as well as its principles, than that it should be referred with special instructions to a Select Committee.

The amendment was then negatived.

THE ADVOCATE-GENERAL moved the insertion of the words "and of their reasons for such amendments" after the word "make" in the 7th line of Clause 5 of the same rule. He said that, by the existing Rules, the Report of a Select Committee had to be signed by all its members, but by the new Rule it was proposed that it should be sufficient if signed by a majority only. The object of this alteration was to prevent any possibility of a hostile discussion appearing on the face of the Report. But as the Report would now be the report of the Committee or of a majority, and there could not possibly be any such discussion, he thought the Report ought to contain a brief statement of the reasons which had induced the Committee, or the majority of the Committee, to come to the conclusion at which they arrived.

MR. MAITLAND thought that some means should be devised for recording the opinion of the minority, and of enabling every member of the Select Committee to enter his protest.

THE ADVOCATE GENERAL pointed out that every member dissenting from the Report of a Select Committee would have full opportunity of stating the reasons and grounds of his dissent, when the Report came before the Council for consideration. The minority would not, as heretofore, be compelled to join in the Report: but the Report would be that of the majority, and the minority would be in no way compromised by it.

The amendment in Clause 5 was then agreed to.

THE ADVOCATE-GENERAL said, with regard to the omission from Clause 8 of the words:—"But no Bill can be passed, and so become an Act of the Lieutenant-Governor in Council unless the quorum required by the Statute 24th and 25th Vic. cap. 67, that is to say the President and not less than one half of the members be present at the time," he might state that it was not any substantial alteration of the old Rules. It was proposed to omit the Clause because it was, to say the least of it, useless to lay down that a thing should not be

done which by virtue of the Statute under which the Council was established they had no power to do.

Rule XV as amended was then agreed to

Rule XVI was agreed to.

BABOO PROSONNO COOMAR TAGORE moved that the following new Rule be introduced after Rule XVI: it would allow persons whose private interests might be affected by any Bill introduced in Council to be heard by Counsel in support of their petition:—

"If a Bill be pending peculiarly affecting private interests, and any person whose interests are so affected apply by petition to be heard by himself or his Counsel upon the subject of the Bill, an order may be made upon the motion of a member calling the petitioner to be so heard either before the Select Committee on the Bill, or before the Council, provided the petition be received by the Secretary before the Report of the Select Committee on the Bill is sent to them. In no other case or manner shall any person be heard by himself or by his Counsel."

After some discussion the Council divided:—

Ayes 7	*Noes* 3
Baboo Prosonno Coomar Tagore.	The Honorable Ashley Eden
Rajah Pertaub Chand Singh	The Advocate-General
Mr. Moran	The President
Mr. Maitland	
Moulvy Abdool Luteef	
Mr. Lushington	
Mr. Allen.	

So the Motion was carried, and the new Rule agreed to.

The remaining Rules were then agreed to with some unimportant verbal amendments.

The Rules, as settled by the Council, were then adopted.

PUBLIC CONVEYANCES IN CALCUTTA AND THE SUBURBS.

MOULVY ABDOOL LUTEEF moved that the Report of the Select Committee on the Bill for regulating Public Conveyances in the Town and Suburbs of Calcutta be further considered in order to the settlement of the Clauses of the Bill.

The Motion was put and agreed to.

THE PRESIDENT said that, upon the last occasion, they had got as far as the 26th Section, but he understood that, in the interval, certain amendments had occurred to Honorable Members which they were anxious to propose, and therefore it would be desirable to go back to those clauses which it was proposed to amend.

MOULVY ABDOOL LUTEEF moved an amendment in Section VII to the effect that the registry plate attached to hackney carriages should have the class and the number of the carriage painted or marked *in the English, Ordoo, and Bengalee languages and characters.*

After some conversation, the Council divided:

Ayes 4	*Noes* 6.
Rajah Pertaub Chand Singh	Baboo Prosonno Coomar Tagore.
Moulvy Abdool Luteef	Mr. Moran
Mr. Lushington.	Mr. Maitland
Mr. Allen.	The Honorable Ashley Eden
	The Advocate General.
	The President

So the Motion was negatived.

In Section XV, on the motion of the Advocate General, the provisions of the Section, with reference to the exposure of tickets were limited to drivers of carriages of the second or third classes.

THE ADVOCATE GENERAL moved the introduction of the following new Section after Section XV.—

"The Registering Officer may, at his discretion, compound for any period not exceeding one year with livery stable keepers and other persons keeping carriages of the first class for hire, for a certain sum to be paid, in lieu of all fees payable during that period, either for the registration of such carriages, or for the licenses of the drivers thereof."

The motion was put and agreed to.

MR. ALLEN pointed out that, by Section XVI as it at present stood, no gentleman could hire a Buggy from a livery stable-keeper without taking out a driver's license.

THE ADVOCATE-GENERAL thereupon moved the insertion of words

excluding from the operation of the Section any person hiring or using a hackney carriage and driving the same himself.

The motion was put and agreed to.

MOULVY ABDOOL LUTEEF moved that Section XXI be left out, in order that the following new Section might be substituted for it:—

"The Registering Officer shall, on application, supply the owner of every Hackney carriage of the 2nd or of the 3rd class with a plate or board having distinctly printed, painted, or marked on it, in the English, Oordoo, and Bengallee languages and characters, the amount of fare according to distance and time which may legally be demanded and taken from the hirer of such carriage as a Hackney carriage, and such owner shall affix on the inside of such carriage, and at all times keep affixed there, such plate or board in such manner and in such position as shall be directed by the Registering Officer. A fee of one Rupee shall be paid to the Registering Officer for every plate or board granted by him under this Section. Any owner who shall refuse or neglect to affix, or to keep affixed, a plate or board as herein provided, shall be liable to a penalty not exceeding twenty-five Rupees."

After some conversation, the Motion was by leave withdrawn

MR. LUSHINGTON suggested the expediency of putting up a board opposite each stand, announcing that it was a public stand: and he moved that the following words be added to Section XXIV:—

"Every public stand so appointed or assigned shall have a board affixed in a conspicuous place in front thereof containing a notice in the English, Ordoo, and Bengallee languages that the stand is a public stand under this Act."

MR. MAITLAND thought that a cab stand would speak for itself.

MR. LUSHINGTON begged to call the attention of the Honorable Member to the fact that the Section applied to coach houses, stables, and sheds as well as to stands.

The motion was put and agreed to.

The postponed Section XXVI, after being amended on the motion of the President, stood as follows:—

"The driver of every carriage of the second or third class registered under this Act shall (unless he have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) drive such carriage to any place to which he shall be required by the hirer thereof to drive the same, not exceeding six miles from the place where the same shall have been hired, or for any time not exceeding one hour from the time when hired Provided always that when any such carriage shall have been hired by time, the driver thereof may be required to drive at any rate not exceeding four miles within one hour, and if the driver of such carriage shall be required to drive more than four miles within one hour, then in every such case the driver thereof shall be entitled to demand, in addition to the fare regulated by time in Schedule (A) to this Act annexed, for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in the same Schedule."

Sections XXVII and XXVIII were agreed to.

Section XXIX was passed after a verbal amendment rendered necessary in consequence of the amendment made in Section XXVI.

THE HONORABLE ASHLEY EDEN moved the introduction of the following new Section after Section XXIX —

"It shall be lawful for any Magistrate before whom any driver shall be convicted of any offence, whether under this Act or any other Act, to revoke the license of such driver, or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the driver or any other the person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same, and every driver or other person who, being so required, shall refuse or neglect to deliver up such license and such ticket, or either of them, shall be liable to a penalty not exceeding twenty Rupees, so often as he shall be so required and refuse or neglect as aforesaid, and the Magistrate shall immediately send every license and every ticket delivered up to him under this Section to the Registering Officer, who shall cancel such license if it has been revoked by the Magistrate, or if it has been suspended, shall, at the end of the time for which it shall have been suspended re-deliver such license with the ticket (if it shall have come into the possession of the Registering Officer) to the person to whom it was granted."

The motion was put and agreed to.

Sections XXX to XXXV were agreed to.

RAJAH PERTAUB CHAND SINGH moved the introduction of the following new Section after Section XXXV:—

"The owner of every palanquin shall put up and, at all times, keep distinctly printed

painted, or marked, in the English, Oordoo, and Bengalee languages, in such manner, and in such position as shall be directed by the registering officer, on the inside of such palanquin, the amount of fare according to distance and time which may be legally demanded and taken from the hirer of such palanquin."

The Motion was put and agreed to.

Section XXXVI was agreed to.

Section XXXVII being read—

MOULVY ABDOOL LUTEEF moved the addition of the following proviso:—

"Provided always that when the owner or person in charge of any such palanquin, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such palanquin for fifteen minutes or for any longer time, it shall be lawful for the owner or person in charge to demand and receive from the hirer so requiring him to stop, a further sum (above the fare to which he shall be entitled calculated according to the distance) of one-fourth of the rate for one hour for every fifteen minutes that he shall have been so stopped, and no owner or person in charge shall demand or receive over and above the said fare any sum for back hire for the return of the palanquin from the place at which it was discharged. Provided also that nothing in this Act contained shall prevent any owner or person in charge from being bound by any contract into which he may enter to receive payment at a rate lower than that fixed by this Act."

The Motion was put and agreed to.

Sections XXXVIII and XXXIX were agreed to.

Section XL being read—

MOULVY ABDOOL LUTEEF moved to substitute for the words "The bearers of every palanquin registered under this Act shall carry the palanquin at the rate of two and a half miles an hour at the least," the following words:—

"The bearers of every palanquin registered under this Act shall (unless they have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) carry such palanquin to any place to which they shall be required by the hirer thereof to carry the same, not exceeding five miles from the place where the same shall have been hired, or for any time not exceeding one hour from the time when hired. Provided always that when such palanquin shall have been hired by time, the bearers thereof may be required to carry it at any rate not exceeding two and a half miles within one hour, and if the bearers of such palanquin shall be required to carry it more than two and a half miles within one hour, then in every such case the bearers thereof shall be entitled to demand, in addition to the fare regulated by time in Schedule B to this Act annexed, for every mile or any part thereof exceeding two and a half miles, the fare regulated by distance as set forth in the same Schedule."

The motion was put and agreed to.

Section XLI provided for the award to persons complained against of amends for frivolous complaints—

MR. ALLEN moved the insertion of words empowering the Magistrate to award amends to the owner of a carriage if summoned under Section XXXIV of this Act to produce a driver complained against, or to both the driver and the owner, for their loss of time

The Motion was put and agreed to.

Section XLII being read—

THE HON'BLE ASHLEY EDEN moved that for the words "of Act II of 1839," be substituted the words "for the recovery of fines contained in Section LXI of Act XXV of 1861:" and the insertion of words extending the application of Act XLVIII of 1860 (to amend Act XIII of 1856) or any other Act for regulating the Police of the Town of Calcutta in force for the time being, to fines and penalties imposed under this Act: and also a proviso that all penalties and fees to be levied under this Act shall be disposed of in such manner as the Lieutenant-Governor of Bengal from time to time shall direct.

The motion was agreed to, as were also the remaining Sections of the Bill.

On Schedule A, relating to fares to be paid for carriages, being read—

THE PRESIDENT thought that, considering all the restrictions that were placed upon the owners of hackney carriages, they were bound to allow as high a rate of remuneration as they reasonably could. He did not think, from all he knew upon the subject, and from such enquiries as he had been able to make, that the rates laid down in the Schedule ought to be reduced.

MR. MORAN considered the rates proposed in the Schedule excessively high as compared with those at home. In Dublin the fare from any part of

the city to another was only six pence: and whatever distance a driver might be taken within certain limits, the driver was bound to remain half an hour and return for half fare. Under the Bill as it stood, no driver would consent to be employed a second hour. When he took into consideration the difference of the expense of feeding horses and paying coachmen in London, Dublin, and Calcutta, he thought the rates laid down in the Schedule excessively high.

THE ADVOCATE-GENERAL moved that the rates be fixed at four annas a mile for second class carriages, and two annas a mile for third class carriages if hired by distance, and at one Rupee per hour for the second class if hired by time, and eight annas an hour for the third class; and that the fares for any period exceeding one hour be struck out from the Schedule: also that payment, when not stated by the hirer at the time of hiring to be by time, be reckoned by distance. By the Bill, as as it had been just altered, a driver was only compelled to hire himself for one hour, and he therefore thought that the Schedule need not fix the fare for any longer period

THE HON'BLE ASHLEY EDEN thought that, without going into the question of the comparative price of hay and straw at home and in Calcutta, the Council could be guided by the rates which obtained in the open market. He considered the rates proposed by the Advocate-General to be very fair, and he should not like to see them further reduced. As a comparison had been made between hackney carriages in Calcutta and those in London and Dublin, he could only say that if he were a cab driver, he would infinitely prefer driving a whole day in London or in Dublin, than one hour in Calcutta.

MR. LUSHINGTON did not think that any comparison could be drawn between the position of drivers in Calcutta and drivers at home. In London, if cab-men were taken from one place to another, upon being discharged they went to the nearest Stand and soon got another passenger. But what chance would a driver here, if taken in the day time to Cossipore or Garden Reach, have of getting a return fare?

After some further conversation the Council divided on the Motion of the Advocate-General:—

Ayes 5.	*Noes* 5.
Baboo Prosonno Coomar Tagore	Mr Maitland.
Rajah Pertaub Chand Singh.	Moulvy Abdool Luteef
Mr Moran	Mr. Lushington.
The Advocate-General	Mr. Allen
The President.	The Hon'ble Ashley Eden.

The numbers being even, the President gave his casting vote in favor of the amendment.

Mr. LUSHINGTON then moved that, for the first mile, the fare should be fixed at eight annas and four annas respectively.

THE ADVOCATE-GENERAL considered that the division which had just taken place had settled the question, and that it was not competent for the Honorable Member to make such motion.

THE PRESIDENT said that the Council had recognised the principle that four annas a mile should be the general rate, but it was quite competent to any member to move an exception in the case of the first mile

MR MAITLAND moved as a further amendment that the fares for the first mile be fixed at six annas and three annas.

MR. MAITLAND'S amendment was negatived

MR LUSHINGTON'S amendment being put, the Council divided:—

Ayes 5.	*Noes* 5.
Moulvy Abdool Luteef.	Baboo Prosonno Coomar Tagore
Mr Lushington.	Rajah Pertaub Chand Singh
Mr Allen.	Mr. Moran
The Hon'ble Ashley Eden	M. Maitland
The President.	The Advocate-General.

The numbers being again even, the President gave his casting vote in favor of the amendment.

On Schedule B, relating to fares for palanquins, being read,—

THE ADVOCATE-GENERAL moved that three annas, the fare fixed for the first mile, be reduced to two annas.

The Motion was agreed to, as was also a motion that payment, when not stated by the hirer at the time of hiring, to be by time, be reckoned by distance.

On the Motion of the Advocate-General, the rates for time exceeding one hour were expunged from the Schedule.

The Preamble and Title were agreed to.

CHITTAGONG DISTRICT.

THE HON'BLE ASHLEY EDEN moved that the Bill to amend Act XXII of 1860 (to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the General Regulations and Acts), which was read in Council at the last Meeting, be referred to a Select Committee, consisting of Mr Allen, Baboo Prosonno Coomar Tagore, and the Mover.

The Council then adjourned till Saturday, the 21st instant.

Saturday, February 21, 1863.

PRESENT:

His Honor the Lieutenant Governor of Bengal, *Presiding*

W. J. Allen, Esq., W. Morum, Esq.,
H. H. Locksington, Esq., A. F. Peterson, Esq.,
The Hon. Ashley Eden, Rajah Pertaub Chand,
Moulvy Abdool Lateef Khan Bahadoor, Singh,
J. N. Bullen, Esq., and
W. Mantland, Esq., Baboo Prosonno Coomar Tagore.

TRANSPORT OF LABORERS TO ASSAM, &c.

THE HON'BLE ASHLEY EDEN moved that the Report of the Select Committee on the Bill to regulate the Transport of Native Laborers to the Districts of Assam, Cachar, and Sylhet, be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee. He said, the only substantial objection which, as far as he could learn, had been made to the Bill was, that by taking cognizance only of the evils of the system of emigration in so far as it related to Assam, Cachar, and Sylhet, it had placed those districts at a disadvantage as compared with the Colonies. But the Government of Bengal, as had been already explained by the Honorable President, had no authority to legislate in regard to Colonial emigration. The necessity of similar supervision over the proceedings of the Colonial recruiters had been pressed upon the Government of India, and action in the matter would, no doubt, be taken at an early date. In the meantime the Lieutenant Governor had obtained the voluntary consent of the Colonial Agents to adopt a system of recruitment essentially the same as that provided in this Act for the Eastern Districts of Bengal. Government had certainly nothing to gain or lose by encouraging emigration to one place in preference to another: and nothing but good to the country could arise from a proper and well supervised system of emigration, to whatever place it might be. He must say, that he thought that those who blamed the Government of India for its emigration policy could hardly see the full force of their objections: for to him it appeared that, considering what that policy was, if they meant anything at all, they must mean either that Government was to prohibit the Native of India from carrying his labor into whatever market he liked, thus placing him in a position which no Englishman would, he should hope, deliberately advocate at the present day, or that Government should withdraw all checks against mismanagement and oppression, and leave the Colonial laborers, whilst under transport, to the mercy of unscrupulous contractors,

who would treat them as the Assam contractors were shown to have done in the absence of similar supervision. It was said that India had not labor enough for itself, but of this the people of India were the best judges, and if the demand for labor in this country was greater than the demand elsewhere, it was not likely that the Indian laborer would undergo the risk and delay of a long sea-voyage for the purpose of laboring at a distance from his home. It might be true, that if the people of India were equally and without reference to their own wishes or interests distributed over the country on a calculation of so many men per square mile, there would not be more than are necessary to reclaim what is at present waste jungle land, but, in fact the people were not and could not be so distributed, and there were certain parts of the country which had a very large surplus population, and every acre of which was supporting some five or six half idle men, and it would be most beneficial to the country that this surplus should be scattered. The only way, however, of effecting this was by affording facilities for them to transport themselves to the place to which it was most to their advantage to go If the Colonies offered the highest inducements they would go to the Colonies, if Assam then to Assam. It was not to be wondered at that men should prefer to go to Colonies where, after the expiry of their first engagement, they could make sure of getting from 10 to 30 Rupees per mensem, rather than to Assam, where they were only offered wages scarcely in advance of the Calcutta rates. When they saw men returning from Assam, as Emigrants now did from the Colonies, with from 2,000 to 5,000 Rupees saved in the course of a few years, Indian laborers, doubtless, would prefer to go there than to any other place. With reference to what had been said on the subject of late, he might perhaps be permitted to say, from personal observation, that nothing could be kinder and fairer than the manner in which the sugar Planters treated their laborers, and that it was certainly a mistake to say the climate of Mauritius and Bourbon was fatal to the Indian. With the exception of the fearful visitations of cholera, to which the Islands were subject, and which attacked Europeans, Creoles, and Indians alike, the climate of these Islands was one of the most equable in the world. The truth, he believed was, that the Bourbon Planters did not like the Bengal laborers, and were anxious to see the system of Coolie emigration stopped and the old semi-slave trade of the Coast of Africa and Madagascar revived,—the system of getting apprentices from the mainland—and with this view they exaggerated the failings of the Bengal Coolies and their usefulness for laborers.

MR. PETERSON wished to make a few remarks upon the observations which had fallen from the Honorable Member. For his own part, he considered that legislation such as was now proposed was wholly unnecessary, and if he saw any chance of success in making such a motion, he would move that the consideration of the Clauses of the Bill be indefinitely postponed. In his opinion men such as those to whom this Bill related were quite old enough to contract for themselves. But it had been resolved there should be legislation, and so there was no use in his attempting to re-open the question. He did not see that any comparisons were called for, or could fairly be drawn, between Emigration to Assam and Emigration to the Mauritius and such places. However much legislation might be necessary to protect Emigrants proceeding across the sea to places out of India, no such legislation was needed when they were merely to pass from one part of India to another. Reference had been made to the remuneration of Coolies employed in the Tea districts of Assam. He himself having been intimately connected with a leading Tea Company in Assam, had no hesitation in saying that a statement, which had been put forward by Captain Stewart in connection with the treatment of Coo-

lies in Assam, was entirely wrong. He would pledge his statement that, in that district, with regard to the *nerick*, the actual labor done is not usually half a day's pay. He had felt himself bound to rise to contradict the statements which had been made with regard to the condition of laborers in Assam. Why, the actual expense of hoeing an acre of Tea was twenty per cent. more than the cost of hoeing an acre of turnips in England. He was for free trade in labor as well as in anything else, and it would be far better, he thought, to leave Coolies to find the best market for their labor unfettered by any legal enactment. He saw no advantage in putting men in leading strings, and as far as his own experience went, he had never seen any workmen with more acute notions of their own rights than the Coolies of Bengal. He had himself originally been appointed a member of the Committee to which the Bill was referred: but after reading the Bill he had felt so convinced of its uselessness, and of there being no need for any legislation on the subject, that he had not attended the meetings of the Committee, and he now felt bound to express his opinion to the Council.

MR. MAITLAND differed in opinion with the honorable and learned gentleman as to the necessity of a measure like the present, for he thought that some such measure was very desirable. With regard to what had fallen from the honorable gentlemen who opened the discussion as to the comparative advantages of Emigrants to the Colonies, and to Assam and other districts in India, he himself could not speak from personal experience, but from what he had always heard from persons who had been in the Mauritius and Bourbon, he believed that a great deal of misapprehension prevailed with regard to the advantages derived by Coolies proceeding to those Colonies. He himself was inclined to think that the laboring population of this country would find it more to their advantage to remain at home than to go there. Before the Council entered on the consideration of the Clauses of the Bill, he wished to refer to a matter which had attracted some attention out of doors among those persons who were interested in the question. Certain apprehensions had been excited in consequence of the Bill having reference only to the transport of Coolies to Assam, Cachar, and Sylhet, and not to Emigration generally, and it was thought by some that it would produce an inequality of the terms upon which recruiters for up-country and recruiters for foreign service would go into the various districts. When the Bill was first introduced, he had suggested that the Bill should be made more general. He had, however, been met by the statement that that Council could only legislate for Coolies engaged in Bengal. He was, however, glad to hear that the general subject would form a matter of consideration in the Council of the Governor General. He believed that the principle of the Bill was a sound one, and he should like to see it extended to Emigration over the whole of India.

THE HON'BLE ASHLEY EDEN, with reference to what had been stated by the honorable and learned gentleman (Mr. Peterson), as to the pay received by laborers in Assam, wished to read a paragraph from the Articles of Agreement which the Coolies *at at least one Tea Planting Company* had to sign. It was as follows:

"That my wages will be at the rate of Rupees 4 a month, but I agree to work on the contract or *nerick* system, and I understand that although I can earn extra wages by working contract, I must work hard to do so."

That, he conceived, was a distinct admission that the Coolies were, as a rule, only to expect four Rupees a month.

THE PRESIDENT said that, before putting the question to the Council, he might mention that a communication had that morning been received from the Landholders and Commercial Association of British India, expressing a desire that the consideration of the Bill be delayed for a fortnight. He would call upon the Secre-

tary to read the Petition, which had been presented by that body.

The Secretary then read the following Petition:—

"That it appears to your Petitioners that there are several Sections of the Bill to regulate the transport of Native laborers to the Districts of Assam, Cachar, and Sylhet which seem likely to add to the difficulty and expense of getting labor, without adding to the benefit or security of the laborers That your Petitioners are desirous of submitting some remarks on the Bill as amended by the Select Committee, but are unable to do so before the time appointed for taking it into consideration in order to the settlement of the Clauses Your Petitioners therefore pray that the reconsideration of the Bill may be postponed for a fortnight"

THE PRESIDENT, in continuation, said that with reference to what had fallen from the honorable member who brought forward the motion, he wished to make a few observations. He wished to correct one slight error into which the honorable member had fallen, which was that that Council had no power to legislate with regard to emigration to the Colonies He apprehended that the Council *had* the power to legislate with regard to laborers recruited in Bengal, whether their destination was Assam, Cachar, or Sylhet, or any of the Colonies He might mention that, in point of fact, a Bill had been in preparation to regulate the recruitment of Emigrants to the Colonies, and the reason it had not been proceeded with was that it was considered by the Governor-General in Council that there ought to be one general law on the subject applicable to all parts of India alike. Any Bill which could have been brought before this Council could have applied to Bengal only; and it was obviously useless to proceed with any such Bill knowing the view taken of the subject by the Governor-General in Council. He had no doubt that some such measure as they were now discussing, but applicable to the whole of India, would be brought before the Council of the Governor-General as early as circumstances permitted; probably it would be introduced before the close of this year, and might be expected to become law shortly afterwards. With regard to the objection made to the proposed Bill, on the ground that it required intending emigrants to be taken before a Magistrate with a view of ascertaining if they really understood the nature of the engagement into which they had entered, he could only say that the provisions of this measure only went to legalize, in the case of laborers going to the Tea Districts, what in point of fact was the existing practice in the case of foreign emigration He believed that, although not rendered compulsory, the same precautions regarding the attendance of intending emigrants before a Magistrate were virtually in existence in all districts, as directions to that effect had been given by the late Lieutenant-Governor of Bengal with the consent of the Coolie Agents some time ago All that was now intended was to give, in the case of emigration to Assam, the authority of law to a course of practice similar to that at present voluntarily followed with reference to foreign emigration, and to which also, he doubted not, the authority of law would be given by the measure applicable to the whole of India, which, as he had said, he believed soon would be introduced in the Council of the Governor-General He quite concurred with what had been said by the honorable and learned member (Mr. Peterson) as to the good treatment and remuneration of laborers in the districts to which this Bill applied. The laborer's daily wages were certainly fixed by contract. But from what he had seen himself, he knew that a man could often in one day earn as much as five or six daily wages. During the tea-picking season, each man was expected to pick daily at the least a certain fixed amount of Tea, which was, he believed, eight or nine seers a day: but there were frequent instances of workmen being able to pick from forty to fifty seers a day, and thus earn five or six times the amount specified in their contract. The present Bill did not contain any

The President.

provisions with regard to laborers after their arrival at their destination: and it was not necessary that it should do so. The object of it was to prevent persons being taken from their homes without full knowledge of the nature of their engagement, and to protect them on their passage to the plantations to which they might be sent: beyond that, there was no need for the interference of the Legislature.

MR. BULLEN had not been in communication with the members of the Landholders Association, and therefore did not know precisely what their objections to the measure were. It seemed to him, however, that a Petition emanating from a body of that kind, who were supposed to be thoroughly conversant with the subject to which the Bill related, ought to be treated with attention by the Council. He should move, as an amendment, that the consideration of the Clauses of the Bill be postponed till the next Meeting.

MR. MAITLAND had no desire to interpose any delay, but he thought it would be desirable, in the present instance, to postpone the consideration of the Clauses of the Bill. He knew that, since it appeared in its amended form, communications had taken place upon the subject between members of the Landholders Association, and an idea prevailed out of doors, whether rightly or wrongly, that the measure would throw great difficulty in the way of recruiting Coolies. He had seen a letter upon the subject from a gentleman who had just returned from Cachar, and there might be others who had not yet had time to express their opinion. An apprehension prevailed that the difficulties thrown in the way of the recruiters would be greater than some of the members of the Council appeared to anticipate, and it must be remembered that the persons who entertained apprehensions on the subject were practical men. On these grounds, and considering the respectability of the body from which the Petition emanated, he was in favor of a postponement for a week or a fortnight.

MR. LUSHINGTON wished to call the attention of the Council to the fact that this Bill had been more than three months before the public, and if the members of the Landholders Association were so thoroughly conversant with the subject as the honorable member made out, and had anything to say, they had had abundant opportunity of expressing their views with regard to it. As it was, they had never expressed any opinion on the Bill or any of its provisions: and now in this Petition even they had not in any way stated their objections. He thought that it was hardly respectful to the Council that such an influential body as the Landholders Association should at the last moment ask them to postpone a measure without assigning any reason whatever for the adoption of such a course. He was strongly of opinion that the Council should proceed to the consideration of the Clauses of the Bill.

MR. PETERSON said that, although he was opposed to any legislation at all upon the subject, still, as the majority of the Council had ruled that there should be legislation, he felt bound to state that he saw no necessity now for a postponement. There had been, in his opinion, ample opportunity for any objections to the Bill being stated: and the Council in the conduct of business must be guided by some rule, and not allow questions to remain in abeyance for ever and a day. As a matter of general convenience, when parties had had full opportunity of raising objections to any proposed scheme, and had not done so, it was unreasonable that they should be allowed to come in asking for a postponement, at the last moment, and even then without stating any objection. For these reasons, without gainsaying any single word he had said with regard to the inexpediency of legislating at all, he should oppose the amendment.

MR. MORAN was quite satisfied, from his knowledge of the spirit which actuated the Landholders Association, that the last thing they would think of would be to do anything disrespectful to the Council. When he con-

sidered that nearly all those connected with Tea-planting in Assam and Cachar were members of that Association, he thought that it would be desirable to grant the short postponement asked for. He should therefore support the amendment.

MOULVY ABDOOL LUTEEF opposed the amendment on the ground that it was desirable, as soon as possible, to take steps to alleviate the hardships to which Coolies might be subjected in their passage to the districts referred to in the Bill.

MR. ALLEN would support the amendment. He could see no urgent necessity for immediately proceeding with the consideration of the Clauses of the Bill, and if some delay were granted, the Council might receive valuable information from the Landholders Association.

THE HON'BLE ASHLEY EDEN said that, although he by no means underrated the value of any opinion or suggestion coming from such a body as the Landholders Association on such a subject, yet it must be remembered that ample time had been afforded to that body for expressing their views: and it ought not to be forgotten that two of the most distinguished members of that Association were members of the Select Committee to whom this Bill had been referred If any serious objections had been felt to the principles of the Bill, they could and should have been urged long ago He could not think that any sufficient ground had been shown for postponement.

MR. BULLEN said that, although it was very true that the Bill had been before the Council for some time, yet it must be remembered that only nine or ten days had elapsed since the publication of the Report of the Select Committee.

MR MAITLAND could not accept the epithet of one of the most distinguished members of the Association, although he presumed that the honorable member had used the expression with regard to him. He had been a member of the Select Committee, and every suggestion which he had brought forward had been received with the utmost courtesy. In some instances he had failed, and in others succeeded. But he wished to point out to the Council that the Landholders Association could scarcely have petitioned while the Bill was in progress before the Select Committee. He himself knew one gentleman who had just returned from the Tea-planting Districts, upon whose experience and judgment he placed the utmost reliance, and that gentleman had barely had an opportunity of considering the Bill as amended by the Select Committee. The delay asked for was very trifling, and he should certainly feel it his duty to vote for the amendment.

THE PRESIDENT wished to express, what he sincerely felt, the highest respect for the Landholders Association. It was a body of the greatest importance and usefulness, not only with regard to the interests of those whom it immediately represented, but also generally with regard to the Government of the country. The suggestions or recommendations of the Landholders' Association always received the most respectful attention at the hands of the Government, and he knew that they would receive the same from the Council over which he had the honor to preside. But he must express his opinion that the same consideration which the Association received from Government, or from that Council, was undoubtedly due from the Association to them in return. And he felt bound to say, although he did not impute the smallest intentional disrespect to the Association, that he thought they had shown some want of consideration in thus at the eleventh hour coming forward for the first time and asking the Council to postpone the consideration of the Clauses of this Bill which had been before the public for, he believed, about three months and a half. The Association had, at the last moment, in a curt petition, and without stating any objection to the Bill, requested that its further consideration might be postponed. He confessed he did not think the request was one which the Council

ought to grant. A future opportunity of raising objections would be afforded when the Bill was brought forward to be passed, and he, for the reasons he had stated, would certainly oppose the amendment.

The Council then divided:—

Ayes, 4.	*Noes*, 7.
Mr. Moran.	Baboo Prosono Coomar Tagore.
Mr. Maitland.	Rajah Pertaub Chand Sing.
Mr. Bullen.	Mr. Peterson.
Mr. Allen.	Moulvy Abdool Luteef.
	Mr. Lushington.
	The Honorable Ashley Eden.
	The President.

So the amendment was negatived.

The original motion that the Report of the Select Committee be taken into consideration in order to the settlement of the Clauses of the Bill was then agreed to.

Section I being read—

Mr. PETERSON moved to add the following words exempting from the operation of the Act persons who employed laborers in their own Districts:—

"Provided always that nothing in this Act shall affect any contract for the employment of any inhabitant of Assam, Cachar, or Sylhet, in any or either of the said respective Districts of which he shall be an inhabitant."

After some conversation, the motion was by leave withdrawn, and the following words were substituted for those proposed:—

"Provided always that nothing in this Act shall apply to any engagement made in any or either of the said Districts of Assam, Cachar, and Sylhet."

The Section as amended was then agreed to.

Sections II to X were agreed to.

Sections XI and XXII were passed after verbal amendments.

Sections XIII to XV were agreed to.

In Section XVI the following words, which had been inserted by the Select Committee, were struck out on the motion of Mr. Moran:—

"Come to the knowledge of the Superintendent that any laborer has been brought to the depôt against his will, or induced by false representations, or in case it shall"

Sections XVII to XXV were agreed to.

Section XXVI was passed after a verbal amendment.

Section XXVII was agreed to.

Section XXVIII was passed after a verbal amendment.

Section XXIX was agreed to.

Sections XXX and XXXI were passed after verbal amendments.

Baboo PROSONNO COOMAR TAGORE moved the insertion of the following new Section after Section XXXI:—

"The Superintendent, on the receipt of a report to the report that any laborer is not in a fit state of health to proceed to his work, shall order the laborer to be conveyed back, if necessary, to the district from which he was brought, at the expense of such party as he may deem proper."

After some conversation, the motion was put and negatived.

Sections XXXII and XXXIII were agreed to.

Section XXXIV, after being amended on the motion of the President, stood as follows:—

"The provisions with regard to registered laborers contained in Sections XIII, XXIX, XXX, XXXI, and XXXIII of this Act, shall be applicable to such children and aged relatives of the laborers as may, with the consent of a Contractor or Recruiter, and with the written permission of the Registering Magistrate, accompany them."

Section XXXV was passed after a verbal amendment.

Sections XXXVI and XXXVII were agreed to.

Section XXXVIII was passed after a verbal amendment.

Sections XXXIX to XLIII were agreed to.

Section XLIV was passed after a verbal amendment; so also was Schedule B.

Schedule A and the Preamble and Title were agreed to.

The HON'BLE ASHLEY EDEN moved that the Bill as amended by the Council be published for general information, and re-considered that day fortnight.

The Motion was put and agreed to.

The Council adjourned till Saturday, the 7th of March.

Saturday, March 7, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding*.

T. H. Cowie, Esq.,
W. J. Allen, Esq.,
E. H. Lushington, Esq.,
The Hon. Ashley Eden,
Moulvy Abdool Luteef Khan Bahadoor,
W. Maitland, Esq.,
W. Meran, Esq.,
A. T. T. Peterson, Esq.,
and
Baboo Prosonno Coomar Tagore.

MUNICIPALITY AND CONSERVANCY OF CALCUTTA.

THE HON'BLE ASHLEY EDEN in moving that the Bill to create a Municipal Corporation, and to provide for the Conservancy and improvement of the Town of Calcutta be read in Council, said he had, when moving for leave to introduce the Bill, stated in detail the principles upon which it was framed, and therefore it was scarcely necessary for him to go over the same ground again. The Bill had now been printed for some time, and had been circulated and suggestions had been divided with regard to it. It was —it would be observed—proposed to vest the Conservancy of the town in the hands of the Justices of the Peace to be presided over by a Chairman with a fixed salary, or, in his absence, by a Vice-Chairman, any five Justices at a meeting forming a quorum. As regarded that part of the Bill which related to the finances of the Corporation, he had no doubt that dissatisfaction would be expressed. People appeared to expect to have a Conservancy as perfect as that of the best European cities, and yet to have to pay nothing for it. It had been objected that a house rate of 10 per cent. was too high, that the Bill did not say that 10 per cent. should be levied, but fixed that a maximum up to which the Justices would go, if necessary; the house rate in other cities was, he believed, as high as 40 or 50 per cent. It must be clearly understood that to have a proper Conservancy, they must have money. Then it was said that the License Tax, though unobjectionable itself, would involve an oppressive machinery, but that was a mistake. He had endeavoured to frame the whole of the Sections regarding these taxes with a view of dispensing with any collecting machinery at all, knowing well that, in this country, the legitimate tax was the least portion of what the people had taken from them, when a host of collecting peons was turned loose upon them. All that men would have to do, both as regards the horse and the shop tax, was to go and pay their tax themselves at the Office of the Municipality and get their receipt. Armed with that, they would be safe, and if they would not adopt this simple precaution, they would have no right to complain of the oppression of the tax collector, who would have to seek them out if they failed to come forward themselves. The machinery for the collection of the horse tax would be productive of a considerable saving to the rate-payers, the cost of collection having hitherto at times amounted to one-third of the amount levied.

When he asked for leave to introduce the Bill, reference had been made to the subject of the river bank. He had since heard doubts expressed as to the property being available for Municipal purposes. Perhaps the Council would allow him to read the opinion of Lord Dalhousie upon the subject. The Secretary to Government, in a letter dated October 22nd, 1852, thus expressed the view of that nobleman:—

"His Lordship in Council directs me to assure you that the Governor of Bengal entertains no such intention of disposing of any part of the land formed to the west of that road, as it appears from the 8th para. of your memorial to be feared His Lordship in Council is aware that a project of that nature was suggested many years ago by some of the Officers, to whose exertions the new formation is owing, but he does not find that any such project was ever adopted or approved by any preceding Government. The most noble the Governor of Bengal, on the report upon your memorial made by his Lordship's order to the Government of India, has stated that certain Pottahdars in Sootonooty, in 1820, acted upon the understanding that the land in front of their holdings was to be used as a road, afford-

ing them the advantage of a road and river frontage, and that it would not be just to alienate the site of the present road for building purposes; so far from proposing at any time to build upon the present Strand Road, it is not proposed even to alter the present line of that road to any great extent, and it is proposed to keep the land between the road and the river in such a condition, as to be both ornamental and healthful to the town, and useful, at once for the purposes of commerce and recreation. The design of the most noble the Governor of Bengal is that the land in question shall be used permanently and exclusively for purposes of public utility connected with the trade, the traffic, the health, and the convenience of the community, in furtherance of which design, roads, ghauts, wharfs, and the like may be made, but no elevated buildings are in contemplation."

He thought that it was clear from that, that the property in the river bank was held by Government in trust for certain special purposes connected with the Town of Calcutta, and that any funds derived from these lands should be expended on the town.

MR. PETERSON rose to make a few remarks with regard to the Bill, and more especially with reference to what had fallen from the honorable gentleman who had sat down. He was sorry to hear, for the first time, that some doubt had arisen as to the right of property in the river bank, and if any claim were made to it, he should like to hear the full extent of that claim. He should certainly have been better satisfied if the honorable gentleman had stated the reasons for the doubt to which he had referred. Generally, he approved of the Bill, and therefore took the earliest opportunity of pointing out wherein he considered it required alteration. He understood that when the Bill was first brought forward, it had been acceded by all parties that the system of self-government was to be imported into the Conservancy of the town, that the principle of election had been tried and found wanting, and the Government had, in consequence, adopted the principle of selection. He thought therefore that no one could now object to that principle, but he thought that it required extension. They would have a certain class of ex-officio conservators of the Town, and there was no objection to the principal part of the Municipal work being carried on by the Magistrates: but it was to be remembered that the Corporation would have the handling of very large funds, and it was well worthy of the consideration of Government whether the Commission of the Peace might not be advantageously extended to more of the trading classes of Calcutta, who, he believed, at present were only represented by Mr. Spink and Mr. Jennings. With regard to the details of the Bill, there existed a conflict of opinion with reference to the nomination of the Chairman. Some were of opinion that the nomination should rest with the Magistrates, subject to the approval of the Government, while others held that it should rest solely with the Executive. For his own part his predilections were in favor of the former principle. If the object of the Bill was to make the rate-payers take an interest in their own business, he considered it very desirable that, subject to the approval of the Government, the nomination should rest with the Justices, for they alone would in practice be amenable to public opinion, and any pressure from out of doors would be brought to bear on them. There was one point in the Bill from which he must entirely dissent, and that was the power given in Section VIII of appointing the Commissioner or Deputy Commissioner of Police Chairman. He objected to that upon principle: and in practice there were strong reasons for the Police being under the Civil Power, and not being mixed up with Municipal affairs. The functions of the Police were totally distinct from the functions of the Conservancy, and he could only say that if it was competent for the Commissioner of Police to become the Chairman, and he was able to discharge properly the measure as proposed, his office to the present time must have been a farce. He, however, thought the duties of the Commissioner of Police were already sufficiently arduous, extending, as he believed they now did, beyond the Mahratta Ditch and em-

bracing some thirteen miles. That being the case, it was hardly fair to expect him to perform the duties of Chairman to the Corporation. He might also inform the Council that the proposal had given rise to an impression that the Government intended paying the Chief Commissioner of Police out of the town funds, and he had himself been asked to intercede with Mr. Wauchope for particular appointments in the new Conservancy. He merely mentioned this because he thought it right that all these matters should be fully discussed, and in his opinion the present duties of the Commissioner and Deputy Commissioner of Police were quite sufficient to occupy the whole of the time of the gentlemen who held those offices. There could not, he thought, be much objection to the general clauses of the Bill, although there were some questions which might arise which would be better discussed in Committee. He considered the definition of optional and obligatory works as incorrect. He himself, among works that were obligatory, would include only such works as were absolutely necessary for the Town, such as the maintenance of roads, repairs of existing buildings, and cleansing. With regard to lighting, that had become obligatory, but he thought some difference might be made between the native and the more fashionable portion of the Town. On the other hand, he should call those works optional which were not absolutely necessary, but which, though not absolutely necessary, might often be desirable, provided the means were forthcoming. He referred to such works as the opening out new streets, constructing tanks, and other works of a like nature. With regard to obligatory expenditure to the extent of funds in hand, the Corporators could be compelled by law to do their duty, and this they could not do if it was in the power of the Government to interfere in the expenditure on such works. The law should regulate the amount and subject matter of taxation, but the mode of disposal of those taxes should be left with the Corporators. On the other hand, he thought that no works of an optional nature should be commenced without the sanction of Government, but that when once sanctioned the mode of carrying them out should be left entirely to the Conservancy. On the subject of drainage he had the honor of being one of the Committee appointed in 1855, and after much discussion their report was made, on which, up to date, the works had proceeded, and although each and every Engineer who had either been consulted or expressed an opinion on the subject, had endeavoured to find fault with the present system, none had shown a better one. He thought it would be better that the present system should be carried out, leaving the Conservancy, according to their means, the discretion as to the particular execution. It was now proposed to levy a water-rate; he thought that if water was necessary it would be scarcely fair to levy a rate before the Town was in a position to supply the water. He thought it would be better to add the interest of money during the execution of works, and only to charge the rate on such parts of the Town where the water was laid on. In his opinion, with regard to rating, it would be advisable, immediately after the passing of the Act, to divide the Town into certain districts, and instead of attempting to do what they did under the present Acts, namely, to value and assess the whole Town yearly, to have a full and fair fresh assessment of the Town, district by district, to last for three years, leaving the old assessment as it was until each district was newly assessed. Under the present system, the valuation and assessment was imperfect, owing to the mode in which it was made, and although the larger class of houses had been fairly assessed, he believed an immense amount of property had never been assessed at all. He had not the slightest doubt that, by a proper assessment, the revenues of the Town would be materially increased. He thought the proposal to compel people to take out licenses for horses a good one, as avoiding the

Mr. Peterson.

enormous cost of collection. He thought it fair that a tax should be put on horses, especially when regard is had to the fact that all the stable litter was removed by the Conservancy. It would cost the individual more than four rupees eight annas a year to remove the litter of a horse. In fact, he was informed that at present the cost of removal of litter from the Livery Stables exceeded all the rates received from the particular Livery Stables. There was one point with regard to the house tax to which he wished to refer. He did not consider it prudent to tax empty houses at half rates; he thought empty houses might be exempted altogether. With regard to fines and penalties he thought that some of them were preposterously heavy, and ought certainly to be reduced. It seemed absurd to tax a native earning some 5 or 6 Rupees a month at the same rate as a European earning from five to six hundred. He did not think that the Police should have powers to interfere in the working of this Act. All penalties or forfeitures might be enforced by the servants of the Conservancy without the aid of the Police. With regard to the question of the river bank, he could not understand how there could be any doubt as to its being held available for the Town He did not wish to raise any political clamour, but he hoped that the rate-payers would, if they had the right, assert it. The river bank properly applied was one of the founts from which the rate-payers might be relieved from a large amount of taxtation, and at the same time much benefit done to the trade of the Town. He would make no more remarks at the present stage of the Bill, but he trusted that, when the Committee went into the various Clauses, they would look very closely into them, and see how far they could be carried out with advantage. With regard to the mode proposed of taxation, it would, he thought, be advisable to invite the evidence of public opinion upon the whole question with a view of devising such a plan which should be as little onerous as possible. With regard to water-supply and drainage, they were questions which might very well be left with the persons who would have to carry out the works, and who were supposed to be acquainted with the wants of the Town. To these observations on the principle of the Bill, he would only add that he looked upon the measure as being one which was much called for, and as likely to be very beneficial to the Town of Calcutta.

MOULVY ABDOOL LUTEEF fully concurred in the general principles of the Bill, so far as the management of Municipal affairs was concerned, with the exception of the Clause permitting the Commissioner of Police to hold the office of Chairman of the Municipal Board, if appointed to it by the Lieutenant-Governor. In his opinion the Commissioner of Police had quite enough to do without being allowed to undertake the heavy duties assigned to the chief working officer of the Municipality. As regarded the increase of taxation proposed, he was sorry to be obliged to withhold his support from the extraordinary measures contemplated. He thought that the people of Calcutta were now heavily enough taxed for the carrying on of their Municipal affairs, and were really unable to endure enhanced or additional taxes on the same account. Moreover, the cost of living at the Presidency had risen so greatly of late, that any further impositions on the resources of trade and industry would be felt as peculiarly oppressive. There were other minor points of detail to which he objected, but these could be discussed in Committee.

MR. MAITLAND did not consider that the meaning of Section VIII of the Bill was that the Commissioner of Police would necessarily be made Chairman of the Municipal Board. All that it appeared to him to imply was that whoever was appointed to the office of Chairman might hereafter be appointed Commissioner of Police, if at any time it shouldbe decided to place the Police under the control of the Municipal Board, because the Section states at the outset that the

Chairman shall not have any other duty or occupation. There could be no doubt, however, that there was a contrary impression abroad. For his own part he thought that the Chairman would have quite enough to occupy his time fully, and he thought also that the proper administration of the Police was sufficient to engage a person's whole time, With regard to the suggestion of the honorable and learned member as to extending the Magistracy among the tradesmen of Calcutta, he entirely concurred in its expediency. By the Bill, the Municipal government of the town will be placed under a Board of Justices, who, he thought, ought to be selected from all classes of the community. He should like therefore to see the Commission of the Peace extended. There were at present only two tradesmen who were Justices of the Peace; but he hoped that Government would appoint other tradesmen also, as there were many respectable men of that class who would be of great use as Magistrates. He was also of opinion that the existing funds were quite inadequate, and he hoped that the public would see the necessity of increased taxation, and submit to it cheerfully.

After some observations from BABOO PRSOSONNO COOMAR TAGORE on the subject of the right of property in the river bank, and the levy of the proposed water-rate on the native inhabitants of the town—

THE HON'BLE ASHLEY EDEN, in reply, stated that he was satisfied that the Lieutenant-Governor would always take care that the intelligent members of every class of the community would be found amongst the Justices: Europeans, Natives, Officials, Merchants, and the Trades would all be represented. As regards the nomination of a Chairman, he had in the original draft of the Bill proposed that the Justices should elect their own Chairman, but on consulting some of the gentlemen who had shown a great interest in the Municipal affairs of the Town, he had found a strong opinion prevailed to the effect that it would be more desirable to have the nomination in the hands of the Government, who would be likely to know where to find the kind of Officer wanted, than to make it a subject of canvassing among the Justices. The question was one which the Council could decide. With regard to the Clause allowing the Commissioner of Police to officiate as Chairman, the Government had no particular wish upon the subject; and he would not object to the omission of that part of the Clause. He would state, however, that it had no reference to any individual appointment, but it appeared to be thought that years hence it might be convenient to vest a sort of general Police control in the Chairman, placing the actual detailed management of the Police in the hands of a Deputy-Commissioner, or it might be convenient to make the Vice-Chairman Deputy-Commissioner. As to there being any desire to saddle the town with the salary of the Commissioner by this Clause, it was never thought of. Government paid the whole Police, and might very reasonably call upon the town to contribute, but such a thing had never been mooted in connection with the present Bill. As to the distinction between obligatory and optional expenditure, to which the honorable and learned gentleman took exception, he quite agreed that the distinction was exceedingly fanciful, but he believed that it emanated from the honorable and learned gentleman himself. ("Yes, but not the details," from Mr. Peterson.) Well, he had been under that impression. As to the objection to taxing vacant houses, he did not see why they should not pay as well as occupied ones. They required to be watched by the Police, their drains looked to, and they caused nearly as much expense as if they were occupied. As regarded the supply of water, he saw no reason for exempting natives on the ground that they objected to a water-supply; the town must have water, whatever they may say; there might, however, be some force in the argument that they should pay less than Europeans, inasmuch as they would have a low pressure supply, and

not a high one. That, however, was a matter which could be better discussed in Committee. With regard to the river bank, he had thought it better to provide for the levy of wharf dues in a very general way. He did not wish to be understood as saying that the right of the town to the bank had been formally denied, but he had heard that there were those who said that the river bank was the property of the State, and that any revenue derivable therefrom must be taken into the imperial exchequer; it was said, moreover, that it was not right that the people of Calcutta should be empowered to levy tolls from the trade of India, and that the result of making over the bank to the Municipality would be, that the Justices would under-assess the inhabitants of the Town at the expense of the trade generally, as had been the case in Liverpool, Glasgow, and elsewhere. These views were held by some for whose opinions he had the highest respect, but there was some misconception of the course which it was proposed to adopt, and of the circumstances under which the Strand bank was formed. In his opinion, the trade of India might most properly and legitimately be called upon to contribute a small —almost nominal—quota to the repair of the streets over which it, of necessity, passed, which were necessary for its existence, and which it injured more than any other kind of traffic. The trade might also contribute properly to the cleaning of the town in which those, through whose agency it was carried on, lived. It was impossible that the trade could be overtaxed through any selfish desire of the Justices to spare the town, for the fees were to be limited by the Lieutenant-Governor, and those who administered the funds, and, in the first place, fixed the rates, were the persons chiefly interested in seeing that nothing was done to injure trade.

He would remind the Council of the circumstances under which the river bank was made. *On the 5th November*, 1793, the inhabitants of Calcutta at a public meeting voted a Statue to Lord Cornwallis, and in 1804 they voted another Statue to Lord Wellesley. The duty of procuring these Statues were entrusted to two Committees. In 1805, the people of this town began to think that, as these marble Statues would spoil by exposure in such a climate, it was desirable to provide some suitable building in which to place them. They proposed accordingly to erect a Town Hall by means of public lotteries, and Government approving of the proposal, certain Commissioners were nominated by Government to act with the public Committees, and the whole were amalgamated into what was called the Town Hall Committee. These Lotteries were very successful, and in 1809 the Town Hall was so nearly completed that the provision of further funds became unnecessary. It was then proposed to continue the public Lotteries, the funds being devoted to the purpose of improving the Town of Calcutta. A notification was accordingly issued on 20th June 1809, stating that the Right Honorable the Governor-General in Council had been "pleased to resolve that Lotteries shall be established for the improvement of the Town of Calcutta. The whole of the funds, which might be realized by the above means, to be applied to the improvement of the Town of Calcutta and its vicinity, after defraying the necessary expenses of the Lotteries and any deficiency which might exist in the funds required for the Town Hall." The Commissioners then appointed managed all the Lottery drawings and schemes, and supervised the expenditure of the profits of the Lotteries in Municipal improvements. One of their chief improvements was the Strand Road; they purchased out the Pottadars and made this road along the bank, reclaiming, as they went, much land which was then below high water-mark. They were sued, jointly with Government, for trespass on these lands, and had to pay all the heavy costs of the suits. By an order of Council, dated 22nd July, 1824, Government advanced the Lottery

Committee for Municipal purposes Rs. 6,40,000. In 1841 it was suddenly discovered that Lotteries were immoral, the Committee was abolished, and the affairs of the Town were intrusted to other hands. On the abolition of the Lottery fund, accounts were balanced, and the money at credit met the whole Government debt, including Rs. 2,54,648 for interest, with the exception of Rs 2,05,351-14-3. To make good this deficit, the Committee transferred to Government certain lands valued at this amount. The land in question was situated in Amherst and Cornwallis Streets, and 8 cottahs on the Strand, the value of which was 4,000 Rupees, let at 31 Rupees per mensem. When the Municipal Commissioners were appointed in 1852, "all lands belonging to the Lottery Committee which had not been otherwise legally appropriated," were made over to them under Section 36, Act XII of 1852, and "all streets and all slips of land alongside of any street, not the property of any private person," were also made over to them When the Commissioners came to enquire for the lands alluded to in this Section, they were told that there were none, all having been made over to Government in liquidation of the Lottery Committee's debt, but the list of lands transferred shows, beyond all question, that this was not correct; that only 8 cottahs, value Rs. 4,000, on the Strand were transferred, whereas there are some 40 or 50 begahs, value 20 to 30 lakhs, on the banks which apparently belonged to the Lottery Committee, and which were reclaimed from the river by operations undertaken at the expense of the Conservancy of the Town, aided by the rents received by letting out the land from time to time as it was redeemed. It is true that Government, after the abolition of the Lottery Committee, paid 2 lakhs of Rupees to compromise a suit then pending on this subject, and to secure an undisturbed possession of the land for public purposes, but this could hardly be held to have deprived the town of all interest in the bank. This question of the bank could not be decided by the Legislature; it must be first disposed of by the Executive Government. He merely alluded to it in explanation of the very general nature of the Sections referring to the wharves and jetties. When the question was finally disposed of, it might be desirable to make more detailed provisions on the subject.

THE ADVOCATE-GENERAL said that, although perhaps not quite in order in speaking after the mover had replied, he wished to make a few remarks upon the subject of the river bank. He did not wish at present to raise any objection to the Clauses of the Bill which proposed to deal with the question of rates and wharfages on the Strand bank: but he thought that the power of that Council to pass Clauses of such a nature well deserved a great deal of consideration and involved some questions not without legal difficulty. He was not giving an opinion on the matter, not having the facts of the case before him, but he would state his present view of the case so far as he recollected the state of things He conceived that the river bank was formed throughout on what was the soil of the East India Company—soil that was subject at the time to the tidal overflow of the Hooghly, and was now the property of the Crown. He thought it was a mistake to suppose that the actual bank ever was the property of the Lottery Committee. Even if it had been so, there could be no doubt that the river bank was now vested in the Government of India, either for the purposes of the Government of India, or in trust for the Town. He desired not to be at all understood to say that it was not competent for the Council or for the Executive Government of Bengal to deal with the river bank for the Municipal purposes of the Town. He thought, however, that the proper view of regarding the question was the view of fairness to the Town which seemed to have been taken up by Lord Dalhousie as Governor of Bengal in the paper from which extracts had been read by his Honorable friend (Mr. Eden.) From that

communication it appeared that, while the Government insisted on their legal right to the property in the river bank, an assurance was given to the Memorialists to the effect that the land in question would not be devoted to any purposes but for the benefit of the Town. He did not anticipate that there would be any practical difficulty in coming to an arrangement with the Government and carrying out such legislative measures as might have the result of vesting in the Municipal authorities of Calcutta the rents derived from the bank. He believed, however, that there would be considerable legal difficulties in dealing with the question.

The Bill was then read and referred to a Select Committee consisting of the Advocate-General, Moulvy Abdool Luteef, Messrs. Maitland, Moran, and Peterson, Baboo Prosonno Coomar Tagore, and the mover.

TRANSPORT OF LABORERS TO ASSAM, CACHAR, AND SYLHET.

THE HON'BLE ASHLEY EDEN moved that the Bill to regulate the transport of Native Laborers to the Districts of Assam, Cachar, and Sylhet be reconsidered.

The Motion was agreed to.

MR. PETERSON rejoiced to see that the weakness which had been shown in another place, and which objected to penalties being imposed for Breaches of Contract, did not characterize the present Bill,—which attached penalties to Breaches of Contract on the part of the employer, though it in no way protected him against breaches on the part of the employed. It had been said that Act XIII of 1859 could be made applicable in such cases: but in fact it could be nothing of the sort, as that Act only applied in cases in which an advance of wages had been given for work to be done. He should suggest that the Bill be not finally committed for a fortnight, with a view of a Clause being introduced to meet the difficulty, and to protect the employer as well as the employed against Breaches of Contract.

THE HON'BLE ASHLEY EDEN begged to call the attention of the honorable and learned gentleman to Section 492 of the Penal code, which appeared to him sufficiently to meet the case. It provided that

> "Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or laborer, for a period not more than three years, at any place within British India, to which, by virtue of the contract, he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both, unless the employer has ill-treated him, or neglected to perform the contract on his part."

MR. PETERSON had certainly overlooked the Section in question, but even now he did not think it would be sufficiently meet every case.

THE PRESIDENT said, that one reason why it had been held advisable to extend Act XIII of 1859 to Cachar and Assam, notwithstanding the existence of the Clause which had been quoted from the Penal Code, was that under that Section it had been held, (whether rightly or wrongly he would not say,) that a laborer could be punished once only for a Breach of Contract. Now it was evident, that if a laborer entered into an engagement for a term of years, and became dissatisfied with the district to which he might be sent, he might prefer undergoing the punishment prescribed by the Penal Code to completing his term of service. The object then being to compel a laborer to complete his contract by inflicting a punishment for every breach of it, it was believed that the extension of Act XIII of 1859 would carry out that object: and he must say he thought that that Act did provide for cases such as those to which the honorable member had referred. After all that had taken place upon the subject of a contract law, and knowing as they did what was the view of the matter taken by the authorities at home, he thought it

would be better to avoid raising a discussion on that question.

THE ADVOCATE-GENERAL could not agree with his honorable and learned friend, that there was any thing in the Bill before the Council which imposed any penal consequences upon the employer for a Breach of Contract. Whatever penal consequences the Act did impose were not, strictly speaking, in respect of a Breach of Contract: they were quite *dehors* any contract. The Bill imposed certain duties upon an employer with regard to the transport and maintenance of laborers, and certain penalties for the non-performance of those duties. The provisions of the Bill were applicable to the employer whether he had or had not contracted expressly either for the conveyance or support in transit of his laborers. It was therefore not correct to say that penalties were imposed by this Bill for Breaches of Contract. After what had taken place elsewhere, he thought it would be very undesirable to introduce in that Council any measure imposing a penalty for Breaches of Contract.

MR. MAITLAND rose to move an amendment, in order to make the Bill applicable to the recruitment of all laborers, whether destined for inland districts or for the Colonies. He held in his hand a Petition from the Landholders' Association, in which the Petitioners stated that they had read the report of the debate which took place when the Bill was considered on the 21st instant, and that, although they thought the Bill was improved by alterations made on that day in it, they still deemed it open to serious objections,—one of which objections was that it applied only to emigration to the Tea Districts, and not also to emigration to British Colonies or Foreign States. He had, on a previous occasion, stated his views with regard to the expediency of making the measure general, and to the opinion he then expressed he fully adhered. The Association in their Petition had prayed that the examination of Coolies should take place in Calcutta rather than Up-country, and his (Mr. Maitland's) individual opinion was in favor of that course. As, however, he knew that opinions were much divided on this subject, and as he saw that the Superintendents in Calcutta of Foreign Emigration had all urged the Government to make the examination Up-country, he did not intend to propose any alteration in that part of the Bill. There was another point to which he wished to advert, which might be productive of great inconvenience. The Bill provided that when boats or steamers left Calcutta with Coolies, they should discharge them only at places to be named by the Lieutenant-Governor of Bengal. Now, the fact was, that many Planters had their property close by the river, and far—it might be some thirty or forty miles—from a Magistrate. As it at present stood, the Bill might cause the planter extreme inconvenience and great expense, and might at the same time expose the laborer to much unnecessary discomfort and danger. When they came to that part of the Bill, he thought that it would be well to introduce a provision that steamers and boats be allowed to disembark laborers at any place they pleased. In the meantime he begged to move, by way of amendment, the introduction, after Section XVI, of the following new Section, rendering the provisions of the Bill of universal application:—

"All the provisions of this Act which regulate the engagement of laborers for the districts of Assam, Cachar, and Sylhet, shall be and are hereby declared to be applicable to all engagements of laborers to proceed to any foreign Country."

THE HON'BLE ASHLEY EDEN deprecated the re-opening of a question which had already been finally disposed of by the Council. He was at a loss to know what had occurred since their last Meeting, which would induce the Council to rescind the decision at which they had then arrived. He might add, what honorable members had been already informed of, that an Emigration Bill of a general character was in preparation, and would embody the general principles of the present measures as regards recruiting.

The President.

MR. MAITLAND was perfectly aware that the Lieutenant-Governor had told the Council that a general measure would occupy the attention of the Council of the Governor-General; but His Honor had also added that it would not pass during the present sitting, and now that the Governor-General was away from Calcutta it might be indefinitely postponed. In his opinion, if the provisions of this Bill were good as regarded the engagement of Coolies for the interior, they were equally good as regarded engaging them for the Colonies. He thought that planters resident in the districts affected by the Bill would be placed, so far as regarded the engagement of laborers, in a disadvantageous position with regard to recruiters for the Colonies.

THE ADVOCATE-GENERAL had not had the advantage of being present at the last Meeting of the Council when the subject was discussed, but from the report of the proceedings it appeared that the subject had then been fully debated and finally disposed of. That being so, he would ask, with the Honorable Member (Mr. Eden), what had occurred since that meeting to induce the Council to alter their decision. As the matter stood, the Bill, referring as it did to certain provinces under the jurisdiction of the Government of Bengal, was most appropriately discussed in the local Council. Any general measure upon the subject would fall within the province of the Council of the Governor-General. They had been told that the matter was at present under the consideration of that Council: and if a Bill was not about to be introduced into that Council immediately, it only showed that the members of it did not consider that there was any pressing urgency for legislation. He did not consider that it would be proper to assume the functions of the Council of the Governor-General and to bring into this Bill a series of Clauses totally unconnected with the original purpose and scope of the measure.

MR. MORAN did not consider that the matter had been finally disposed of at the last Meeting, as no substantive motion had been brought forward on that occasion.

THE PRESIDENT did not object to the abstract principle involved in the amendment proposed by the Honorable Member. For the reasons however which had already been stated, he should feel bound to oppose it. Independently of the objections urged by the Advocate-General, it must be remembered that if they introduced a Section so materially affecting a large number of persons, it would be absolutely necessary to republish the Bill and give time for any objections to be raised to it. Such a course must inevitably cause great delay, and perhaps might defer the passing of the Bill till next year. Practically the same principle was followed with regard to laborers recruited for the Colonies, and he did not think that the Planters in Assam, Cachar, and Sylhet would find themselves placed in a disadvantageous position as compared with recruiters for other places.

MR. MAITLAND then, by leave of the Council, withdrew his motion.

On the Motion of the Advocate-General the following new Section was introduced after Section XI, providing that in the case of laborers recruited in Calcutta, the examination should be by the Superintendent and not by the Magistrate:—

"Every native inhabitant of India, who shall, in the Town of Calcutta, enter into any engagement with a Recruiter to proceed to the Districts of Assam, Cachar, or Sylhet, for the purpose of labouring there for hire, shall, within forty-eight hours of making such engagement, appear with the Recruiter before the Superintendent having authority in the said town. Upon so appearing, the Recruiter shall state to the Superintendent to what depôt he intends that the laborer shall proceed, and the Superintendent shall thereupon examine the laborer with reference to his engagement, and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Superintendent shall register the name of such laborer and the depôt to which it is intended he shall proceed, in a book to be kept for the purpose in such form as the Lieutenant-Governor of Bengal shall prescribe; but if the Superintendent shall be of opinion that such person does not comprehend the nature of his engagement, or that he

has been induced to enter into it by fraud or misrepresentation, he shall refuse to register the name of such person."

MR. MAITLAND moved the omission, in Section XXVI, of the words—

"No place shall be named in any such pass as the destination of any laborer, except a place which shall have been declared by the Lieutenant-Governor to be a place for the disembarkation of laborers under this Act,"

in order subsequently to move the omission, from the Bill, of Sections XXVIII, XXIX, XXX, XXXI, and XXXII, and the substitution for them of the following new Section :—

"On the arrival of any party of laborers at their place of destination, the person for whom they have been engaged shall be bound immediately to send to the nearest Magistrate, a return showing the number of such laborers embarked and landed and accounting for any deficiency, and the Magistrate shall, if he deems it necessary, institute an enquiry as to the cause of any deficiency in the number of laborers landed, and report the same to the Superintendent at the place of embarkation. A duplicate of the said return shall be sent to the Superintendent by the person for whom the laborers have been engaged."

He said that the Coolies would be cared for at Calcutta by the Superintendent, who would see that all proper precautions were taken for their conveyance to their place of destination, and he thought this, combined with such a Clause as he now proposed, would be sufficient, and would render it unnecessary that a Magistrate should superintend their disembarkation, while it would be productive of great inconvenience if they could be landed only at places at which a Magistrate resided. The Tea Planter would be bound by the proposed Clause to render to the Magistrate in the District and the Superintendent in Calcutta, returns showing any mortality or desertion on the voyage, and enquiry would be made if anything appeared wrong.

Some conversation took place in reference to this amendment, which was opposed by the Lieutenant-Governor and the Honorable Mr. Eden; when, on the motion of Mr. Eden, an alteration was made in Section XXVIII by which the Magistrate was empowered to depute any party to conduct the examination of the Coolies when landed, and Mr. Maitland (by leave) withdrew his amendment.

Some verbal amendments were agreed to, and the Bill was then passed.

The Council adjourned till Saturday, the 21st March.

Saturday, March 21, 1863.

PRESENT :

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

W. J Allen, Esq.,
The Hon. Ashley Eden,
Moulvy Abdool Luteef Khan Bahadoor,
J. N Bullen, Esq.,
W. Moran, Esq.,
A. T.T. Peterson, Esq.,
Rajah Pertaub Chand Sing,
Baboo Prosonno Coomar Tagore, and
Baboo Ramgopal Ghose.

CHITTAGONG DISTRICT.

THE HON'BLE ASHLEY EDEN moved that the Report of the Select Committee on the Bill to amend Act XXII of 1860 (to remove certain Tracts on the Eastern Border of the Chittagong District from the jurisdiction of the Tribunals established under the general Regulations and Acts) be taken into consideration in order to the settlement of the Clauses of the Bill.

The Motion was agreed to, and the Bill was settled without alteration.

On the motion of the Honorable Ashley Eden, the Bill was then passed.

CONSTRUCTION OF LINES OF COMMUNICATION.

THE HON'BLE ASHLEY EDEN, in moving that the Select Committee on the Bill to promote the construction of Lines of Communication as feeders to Railways, High Roads, Navigable Rivers, and Canals, be discharged and the Bill withdrawn, said, that this Bill had been introduced more than a year ago, and referred to a Select Committee. It was at that time

considered that the subject was one for local legislation, and it was expected that the Governor-General's Council would not move in the matter till it was seen what became of this Bill. The Select Committee had a good many Meetings, and made considerable progress with the Bill, which would have been ready to be proceeded with when the Council met in November, had it not become known that the Government of India had taken up the subject, and prepared a measure applicable to the whole of India. That Bill was introduced into the Governor-General's Council, and had since been passed, being Act XXII of 1863. As it substantially disposed of the whole matter, though differing considerably from the Bill before this Council, there was now no possible good in attempting to proceed further with the latter. That being so, it was of course desirable to have it struk off the list of business pending before the Council. He therefore moved the withdrawal of the Bill and that the Committee be discharged.

The Motion was agreed to.

MUNICIPALITY AND CONSERVANCY OF CALCUTTA.

THE HON'BLE ASHLEY EDEN moved that the Select Committee on the Bill to create a Municipal Corporation and to provide for the Conservancy and Improvement of the Town of Calcutta be instructed to report after the 2nd of April. The Committee had held several meetings and had made some alterations in the Bill While they had used every endeavour to obtain some expression of public opinion with regard to it, he was sorry to say that, up to the present moment, those endeavours had been most unsuccessful, and that notwithstanding the interests affected by the measure, the Committee had not received a single communication from any quarter whatever with regard to it.

MR. PETERSON wished to offer a few remarks to the Council, in confirmation of what had been just said. He was one of those who took much interest in the Bill, and he had given a considerable amount of time to its consideration in the Select Committee. He agreed with what the honorable gentleman said as to the want of interest taken with regard to the proceedings in connection with this measure, and he wished to know whether it would be improper to insert a Notification in the *Calcutta Gazette* stating the times of the meeting of the Committee, and inviting suggestions He thought the Committee would find it their duty to recommend some very heavy taxes to meet the requirements of the Town. That this was so, was well known: and yet so little interest had the public shown with regard to the measure, that not a single suggestion had been offered to the Committee. The Committee had no power to enforce the attendance of witnesses, or the production of documents except in the case of official servants of Government. Yet it was most desirable that they should have some independent action and advice and assistance in the matter. The Bill had not yet been published in the *Bengalee Gazette*, and it must be borne in mind that the Bill very materially affected the Bengalee portion of the Community He would suggest that a Notification of the days of Meeting of the Committee be published in the *Gazette*, and also in some of the local journals.

MR. ALLEN thought the Bill ought to be published in the *Bengalee Gazette*.

THE PRESIDENT apprehended that there could not be the slightest objection to a Notification being published by the Select Committee, and signed by the Secretary to Government in the Legislative Department, for the better information of the public. And if such Notification were issued, it ought also to appear in the *Bengalee Gazette*. He regretted to say that the Bill had not yet been translated or published in the *Bengalee Gazette*, but it must be remembered that the Bill was a very long one, and translating it was necessarily a work of considerable time. He

hoped, however, that it would appear in the next issue. It was to be regretted that the Government Officials charged with the translation of the Bill had not been able to accomplish their task sooner; but its not having yet been translated afforded a stronger reason for publishing a Notification such as that referred to by the honorable and learned gentleman.

THE HON'BLE ASHLEY EDEN said that he ought to have made one exception to the general rule,—for Mr. Jennings had promised to attend the next meeting of the Committee and had various suggestion to make.

The Motion was then agreed to.

The Council adjourned till Saturday, the 11th of April.

Saturday, April 11, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

W. J. Allen, Esq.,	Baboo Prosonno Coomar Tagore, and
The Hon. Ashley Eden,	Baboo Ramgopal Ghose.
Moulvy Abdool Luteef Khan Bahadoor,	
W. Maitland, Esq.,	
A. T. T. Peterson, Esq.,	

REMUNERATION OF COURT PEONS

MOULVY ABDOOL LUTEEF moved that the Report of the Select Committee on the Bill to amend the law relating to the employment and remuneration of peons for the service and execution of the process of the Civil Courts, be taken into consideration, in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

Sections I to V were agreed to.

Section VI being read—

MR. ALLEN said it was his intention to move an amendment, which would have the effect of rendering the Bill similar to the measure which had been passed by the Imperial Government, by giving the Lieutenant-Governor the power of paying peons either by fees or fixed salaries. The provisions of the present Bill had been extended to the Revenue Courts, and he might mention that some time ago an enquiry had been instituted as to whether it was most desirable to pay the peons of those Courts by fees or by fixed salaries. The matter had been referred to Sir Frederick Halliday, and he, after careful consideration, had expressed an opinion in favour of payment by fees. For his own part he was in favor generally of fixed salaries,—and he had so stated his opinion at the time; but he thought it would be expedient, considering the doubts which existed on the subject, to leave the local Government entirely unfettered in the matter. In some parts of the country it might be desirable to remunerate peons by fees, and in other parts by fixed salaries, and he thought the question might well be left to the discretion of the Government. He should therefore move that the Section be omitted, and the following Section substituted:—

"The Peons appointed and registered under this Act, shall either receive fixed salaries or be remunerated by fees as the Government of Bengal shall direct. The amount of salary shall be fixed by the said Government."

THE HON'BLE ASHLEY EDEN thought that the main object of the Bill was to do away with the system of payment by fees altogether.

THE PRESIDENT saw no objection to the amendment. His own opinion was in favor of the remuneration of peons by fixed salaries, but he was not prepared to say that there might not arise cases in which it might be desirable to remunerate them by fees. One point in favor of the amendment was that it followed the words of the Section of the Act passed by the Imperial Legislature. On the whole, he considered the amendment one of an unobjectionable character.

The amendment was then agreed to.

Section VII was agreed to after verbal amendments.

Section VIII was agreed to.

Section IX (providing that any surplus that might accrue should be disposed of by the Government of Bengal in such manner as it should think fit) having been read—

MR. ALLEN rose to propose an amendment. As the Section at present stood, any surplus,—and there was reason to believe there would be a large surplus,—would be at the disposal of the Government, and might be employed for Imperial, or, in fact, for any other purposes. His object was to make it incumbent on the Government to apply any such surplus to the improvement of the Civil and Revenue Courts. There could be no doubt that at present many of the Officers of those Courts were underpaid and hard worked, and this fund might enable Government to do justice to such persons, and to give them an adequate remuneration for their services. He would therefore move that the concluding words of the Section be struck out, with the view of substituting the words "at the disposal of the Government of Bengal, and shall be applied by the said Government to the improvement of the Civil and Revenue Courts."

MR. PETERSON should certainly oppose the Motion on account of its general vagueness. Great doubt might arise as to the meaning of the expression "improvement of the Courts." Some persons might consider that it applied exclusively to providing improved accommodation, while others might hold that it applied equally to an improvement of the judicial mind. There were many things to be taken into consideration, such as pensions, and similar charges, and he thought that, upon the whole, it would be most expedient to leave the disposal of the surplus to the discretion of the Government.

THE HON'BLE ASHLEY EDEN entirely agreed with the honorable and learned gentleman. There could, he thought, be no doubt that Government were desirous of improving the Courts, and the surplus, if any, might safely be left to their disposal.

MR. MAITLAND supported the amendment. He saw in the statement of objects and reasons, that it was the original intention to apply any surplus to the improvement of the Civil Courts, but, as the Section stood, power was given to Government to apply it to any purpose whatever.

THE PRESIDENT said that, before putting the amendment, it would be necessary, in consequence of the alteration which had been made in Section VI, to alter the wording of the previous part of the Section. He apprehended that the intention of Section VI was that when the local Government directed that the peons should be paid by fees, those fees should be regulated by the Government, and not left to be collected by the peons themselves. He proposed therefore to introduce in this Section, after the word "salaries," the words "or fees"

The Amendment was agreed to.

On the previous amendment being put—

MR. MAITLAND said he considered it to be based upon a correct principle, and to be of great importance. He thought it was most desirable that the general revenue should in no way be increased by the costs of legal proceedings, and if a surplus were obtained larger than was required to carry out the purpose originally indicated, it would be better to reduce the fees than to apply that surplus to general purposes.

A division was then taken, when there appeared—

Ayes.	*Noes.*
Baboo Ramgopal Ghose	Baboo Prosonno Coomar Tagore.
Mr Maitland	Mr. Peterson.
Moulvy Abdool Luteef	The Hon'ble Ashley Eden.
Mr Allen	The President.

The numbers being equal, the President gave his casting vote against the amendment, which was accordingly lost.

The Section was then agreed to, as were the remaining Sections and the Preamble and Title.

The Council then adjourned till Saturday, the 25th instant.

Saturday, April 25, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

W. J. Allen Esq.,	Rajah Pertaub Chand Singh,
The Hon Ashley Eden,	
Moulvy Abdool Lutcef Khan Bahadoor,	Baboo Ramgopal Ghose,
W. Maitland, Esq.,	C. H. Brown, Esq.,
A. T. T. Peterson, Esq.,	and F. Jennings Esq.

Mr. Brown and Mr. Jennings took the usual Oaths and their Seats as Members of the Council.

REMUNERATION OF COURT PEONS.

THE HON'BLE ASHLEY EDEN said that, before moving that the Bill to amend the law relating to the employment and remuneration of Peons for the service and execution of the process of the Civil and Revenue Courts be passed, he would move that the Bill be reconsidered by the Council, as a few verbal amendments appeared to him to be necessary.

The Motion was agreed to, and the amendments having been introduced, the Bill was passed.

MUNICIPALITY AND CONSERVANCY OF CALCUTTA.

THE HON'BLE ASHLEY EDEN, in applying to the President to suspend Clause 5 of the 15th Rule for the conduct of Business, said that he would briefly explain the object which he had in view. They had arrived at the season at which the Council usually adjourned, and they had but little business before them except this Bill, which had been for many months in the hands of members, and to which every publicity had been given. It was true that the amended Bill had not been in their hands for as long a period as the Standing Orders required, in order to enable them to take the Clauses into consideration: but, in point of fact, the alterations made by the Select Committee did not affect the principle of the Bill, although it improved its details. Under these circumstances, he thought that to postpone the further consideration of the Clauses would be quite unnecessary,—and it must be borne in mind that by defering the matter they would lose the valuable assistance of the honorable and learned gentleman opposite (Mr. Peterson,) who was about to leave the country for a time. Considering the great trouble that the learned gentleman had taken with the measure, and his peculier qualifications for assisting the Council in any question relating to Municipal matters, he thought they would not be acting wisely in sacrificing the advantage to be derived from his presence, to any mere consideration of form. He must add, that his honorable and learned friend had, with characteristic public spirit, postponed his departure by the last Mail, in order that he might be present at the discussion of this measure. This personal sacrifice was one for which the thanks of the Council and of the Government were due. He trusted that the Council would allow the Bill to proceed as rapidly as possible. If the Council should agree to proceed with the consideration of the Clauses to-day, he meant to suggest that they should begin with the consideration of Section 110, as that and the following Sections contained but little that was new, and were merely re-enactments of the existing Act. Such a course would give longer time for the consideration of the first part of the Bill which, relating as it did to the constitution of the Municipality and the Financial arrangements, was by far the most important.

MR. PETERSON wished, with the permission of the President, to make a few remarks upon the general principle of the Bill. If it were in accordance with the Rules of the Council, he should like to offer some observations for the information of those Members who were not on the Committee, and also for that of the general public. It

would be more convenient that any comments on the general nature of the Bill should be made at the present stage, or otherwise they might get into an endless amount of controversy upon a few points of detail which would not affect any general principle. If, therefore, the President would allow him, he would offer a few observations, in order that Honorable Members, not on the Committee, might have some inkling of his particular views. With the exception of some few matters of detail, the Committee had been almost unanimous; the matters on which they differed were matters which, it was thought, might be better discussed by the whole Council in settling the Clauses of the Bill. Taking into consideration how the Bill affected the interest of certain classes, he could not help again remarking that the rate-paying public appeared to have shown no interest in the measure; he was sorry to say that, with the exception of the Trades Association, the British Indian Association, and one or two private individuals, and with the exception that valuable assistance had been rendered to the Committee by the Officers of the existing Corporation, the public generally had evinced the greatest apathy. He had thrown down the gauntlet at the last meeting, but his invitation had not been responded to. If the President thought him entitled to proceed—

THE PRESIDENT said, certainly he might do so.

MR. PETERSON continued—the principle of selection as opposed to that of election had eventually been unanimously agreed to, on a question he believed raised by himself. He had himself at first been strongly in favor of the principle of the election of a Chairman by the rate-payers, or rather the Justices. He never was of opinion that they would choose a better person than the Lieutenant-Governor would be likely to choose, or that they would have a better field to select from. But he went upon the principle that as regarded the operation of the Bill whether for good or evil, it would be better to impose on the rate-payers the responsibility of choosing an efficient Officer. No doubt, what he was about to say would be taken up and found fault with, but he could state that the little interest evinced by the rate-payers during the progress of the Bill, had partly induced him to agree with the Committee in recommending the principle of selection. He knew himself that, if the same rule applied to public which applied to private life, the distribution of patronage was a most irksome task. If any one had the character of being a "good fellow" or any similar qualification, a person possessing patronage of whatever description was sure to be applied to do something for him,—and it was a most thankless task. He had not the slightest doubt that the Government would do their best to get the best man: and the Committee had so far modified the principle of selection as to provide that two-thirds of the Justices might request the Lieutenant-Governor to cancel his appointment of a Chairman. It must be remembered that it would require a person of no ordinary ability to discharge adequately the important duties of Chairman, and the selection was a matter of the utmost importance. With regard to most of the amendments proposed by the Select Committee, they were, and would, he believed, be considered, entirely unobjectionable. There was one Clause in the Bill to which he wished to refer, namely, the Clause which referred to the Chairman being able to act as Commissioner of Police. He had been strongly opposed to any such provision: but after the explanation which had been given to the Committee as to the object of that Clause, he had withdrawn his objection. The Honorable Gentleman who had charge of the Bill would no doubt afford the Council the same full explanation which he had given to the Committee: but in the meantime he might say that the object of that Clause was not to create an Office for the Commissioner of Police, but to place the Police under the control of the Chairman, while an active Deputy-Commissioner would be the practical Head of the Police, and be charged with

the execution of Police details. He said this because, having formerly publicly stated his objections to the Clause, and having seen reason to change his opinion, he felt himself bound to declare so in an equally public manner. He must also say that, when he looked at the vast works which were of the utmost necessity to the Town, if they wished to see it become what it ought to be with regard to commercial as well as sanatary improvements, he felt that they must put their right shoulder to the wheel. If it was their object to purify the Town, and not to have the air infected by pestilent gases, such a change could not be effected without dipping deeply into the pockets of the rate-payers; and those persons who were unwilling to contribute their quota, must be compelled to do so. He was in possession of a rough estimate (furnished by Mr. Turnbull, the Secretary to the Municipal Commissioners) of the amount which would require to be expended. It could not be taken as absolutely correct in all particulars: but still it gave one a very good idea of the state of affairs From that statement he came to the conclusion that if they levied a house-tax of 10 per cent instead of 7½ per cent., and if they got all the additional taxes proposed by the present Bill, the total income of the Town would fall short of 11 lakhs. On the other hand, including the cost of a system of drainage works, to carry out which efficiently they could not do with less than 5 lakhs annually, the total expenditure of the Town would be a little more than 13 lakhs. As regarded drainage works, he did not think that they could be properly carried out for less than 5 lakhs a year If indeed they could spend more, so much the better: but he was afraid that they could not do so without interfering with the balance of the labour market to such a degree as to interfere with other works. They must, however, be prepared to look upon 5 lakhs as the lowest annual expenditure for drainage. Then arose the question, how were the necessary founds to be procured. His honorable friend (Mr. Maitland) had drawn up a scheme upon a principle which he thought a correct one, namely, that all works of a permanent character, which were for the benefit of posterity, should not be thrown indiscriminately upon the present generation, but that, while the works were going on, the greater part of the money should be borrowed, establishing a Sinking Fund for the purpose of liquidating the debt in a few years. Even, however, if that scheme were carried out, it must be remembered that a large sum would be required for interest and for the Sinking Fund, and he could not see his way clearly to placing the Town in a proper state without imposing to its fullest extent every tax which this Bill provided for. The fact was, that if the public expected the works to be properly carried out, they must expect to pay for it. After looking closely into the subject, he had come to the conclusion that every farthing which the Bill empowered the Corporation to raise, would be necessary for carrying out the Conservancy of the Town. The estimate to which he had referred made no allowance for contingent charges, and for those improvements which must take place in every Town, but only applied to the management of roads, drainage, watering the streets, &c. For his own part he did not see how, having regard to the cost of material and the increased price of wages, any one could expect to carry on the Conservancy of the Town for a lower sum: and people must make up their minds either to stop all improvement or to have a large expenditure. It was idle to say, as was said by some, that the streets of Calcutta were better paved forty years ago than they are now. No doubt, they were; but then there were, comparatively speaking, no hackeries and little traffic on them. Why, for every ton of goods carried over the streets then, there were forty tons carried now, and although it might be said that the taxtation proposed was enormous as compared with the period to which he had referred, yet the Town was at present better prepared to meet the increased taxation than it was the

taxation of those days. There was one point with regard to which he differed, he believed, from the majority of the Select Committee, and that was in relation to the license tax. It was a notorious thing that there were many persons living in Calcutta or the suburbs, who carried on a large business in small rooms in Calcutta. He maintained that it was necessary to have a license tax, fixed at a small rate, levied upon all trades or professions. He knew that he was now treading upon dangerous ground: but he knew that the income of the Town could be materially increased by the levy of a small tax in that way. He did not wish the Municipality to have too much money at their disposal, for that would lead to its being squandered: but he certainly did wish to make sure that they should not be without sufficient funds to carry out necessary works. He could only repeat, that if they wished to improve the Town by opening new streets, and to render it fit for the ordinary purposes of habitation and trade, they must have more money than they would get under the Bill as it at present stood, and the best way he could see to raise more money was by the imposition of such a tax as that to which he had referred. Taking the maximum of taxation as imposed by the Bill at present, he believed that they would require a larger sum than could be expected to be levied from that source. He would content himself with these remarks as regarded the financial question. But there was another point with regard to which he wished to address a few remarks to the Council: he meant the mooted question of the river bank. He had that morning read an article in the *Hurkara* newspaper, which certainly appeared to him to have been written by some one affected with the new disease kleptomania, and which advocated the appropriation of the river bank to the benefit of the shipping by lowering the Port-dues. Now it was an old and true maxim—"be just before you are generous"—and the first question to look at was, whether the river bank was the property of the Town or not. If the property did not belong to the Town, they could not legislate with regard to it, but if it did, the Town had much right to dispose of it as any owner of a house or other property. There was no doubt that, if it were the property of the Town, it could be made a large source of revenue; but it was not the duty of that Council to decide upon the rights of property, but only to legislate with regard to property the right to which was ascertained. Although they could not legislate upon the right of property, yet they might give such a public expression of opinion on the subject, as would lead to the question being settled on a satisfactory basis. For his own part, he maintained that the river bank was held by the Government in trust for the Town, and he certainly felt surprised to hear his learned friend the Advocate General, on a previous occasion, throw out a hint that the Government might have obtained a title by adverse possession. He had always been under the impression that, in cases of trust, limitations did not run, and certainly, if the river bank was originally handed over to the Government in trust for the Conservancy of Calcutta, the trust still remained. This was a matter of which the whole population of Calcutta were bound to take notice, and he was convinced that, in looking after their own rights the people of Calcutta would receive every assistance from the Government of Bengal. It was a well known fact that many persons, whose names were connected with the British Indian Association, had given up their claims, or in some cases, sold them at a nominal price, on the understanding that the property was wanted for the benefit of the Town; and he could only repeat again that the Town ought to insist upon its rights. While saying this, however, he wished to point out that all that the Council could do was to legislate for existing rights, and that it had no power to create a right. There was one other point

to which he wished to refer. Complaints had been frequently made that, virtually, there had never been a thorough assessment of the Town of Calcutta. It was said by many that the native part of the Town had never been thoroughly assessed, and that such a state of things was a scandal; but in his opinion the whole reason was that the assessments had been annual, and consequently the Assessors had had no time to thoroughly perform their work. When the proper time came, he should move an additional Section, providing that, immediately after the passing of this Act, the Town should, for the purposes of assessment, be divided into districts, and that the assessment then made should be retained for three years, the old rates to be continued till the assessment was complete. He begged to thank the Council for the attention with which they had listened to his remarks. The question of taxation was, he believed, the most depressing that could be raised in any public debate, and, perhaps, worse than the dryness of the details, was the prospect of soon seeing the tax gatherer at the door.

THE HON'BLE ASHLEY EDEN said, that it had not been his intention to make any remarks on the general principle of the Bill on the present occasion, because he was most anxious that the measure should be pushed forward as fast as possible, and also he thought that a better opportunity would occur for doing so when they came to discuss the measure Clause by Clause. After however, what had fallen from the honorable and learned gentleman, it might be expected that he should make a few observations upon the subject. The question of selection or election was settled by the Select Committee unanimously, and he did not think it necessary, to reopen it. He believed that, although at first nearly all of the Members were in favor of election by the Justices of the Peace, they had eventually come to the conclusion that the best course to adopt would be to leave the selection in the hands of the Lieutenant-Governor. With regard to Section 10, he could only say that it had never been intended to save the salary of the Chief Commissioner of Police by doubling up two Offices into one. What had been intended was to place a general departmental control over the Police in the hands of Chairman of the Corporation, all matters of Police detail being left in the hands of a Deputy Commissioner, to whom the practical working of the Police would be entrusted. It was felt that, unless some such arrangement could be made, putting the Police generally under the control of the Chairman, there was a probability that the Police, so far from acting in concert with the Municipal Officers, might frequently be brought into collision with them and that unnecessary expense would be incurred by the Municipality having to keep up a much larger staff of Overseers, Inspectors, and other subordinate Officers, than would be required if the Police could be used for Municipal purposes as well as for matters strictly falling under the head of Police. It would be seen also, that by certain Sections of Act XIII of 1856 (the Police Act) certain Municipal duties were vested in the Chief Commissioner of Police, and this was another reason why it had been thought desirable to vest the general control of the Police in the hands of the Chairman of the Corporation. As regarded the license tax, so far from disagreeing with the honourable and learned gentleman, he quite agreed with him that it might be made more general. With respect to the financial aspect of the question, he could only say that by loans to be liquidated at a distant date by means of a properly devised Sinking Fund, he could not help thinking that 7½ per cent. would be quite sufficient to levy as house-tax. As to the proposition of making over the river bank for the relief of the Port-dues, he considered it a most selfish one. He confirmed what had fallen from the honorable and learned gentleman as to the pottahdars and others interested in the land withdrawing certain claims to the bank on

a positive assurance from Lord Dalhousie that the bank would be reserved for the purposes of commerce and recreation, and that it should be devoted exclusively to purposes of utility connected with the trade, the traffic, the health, and the convenience of the community. It was certain that neither Lord Dalhousie nor the pottahdars, in compromising all disputes in this manner, ever intended the bank to be devoted to the reduction of Port-dues. If the bank belonged to the public, it belonged to the whole of the public, and should be applied for their benefit; and he had no doubt that the river bank did belong to the town, and was practically held by the Commissioner of Police in trust for the Town. It had been formally made over in 1825 to the Justices "in the Conservancy Department": and when that body was abolished, the Chief Magistrate continued to take charge of the bank; but not looking to see how or for what purposes it came into his hands, he placed the funds derived from it to a separate account, instead of carrying them to the account of the Conservancy. Again, when that office was abolished, and a Commissioner of Police appointed, he found that the river bank had been in the hands of the Chief Magistrate, and he, equally omitting to enquire how it came there, kept the account separate. As the matter at present stood, when once the right of property was fairly established, there would be no further difficulty, as the funds were at present standing to that special account in the Bank of Bengal. In the meantime, the Section of the Bill as it stood did not deal with the river bank. It simply made a provision for lands belonging to the Justices, and referred to other lands besides the river bank. If the river bank was decided to be the property of the Justices, then it would come under this Section. If it was decided otherwise, the Section in question would not apply. The Section did not meddle with the question of right.

MR. MAITLAND said, that he should not have risen on the present occasion, had it not been that special reference had been made to himself by the learned gentleman who had first spoken. As regarded the license tax, he could say that representations had been made, when the point was considered by the Select Committee, on the part of Shop-keepers, complaining of the exemption of Merchants, Bankers, &c., from the operation of the tax. He thought those representations were just, and had mentioned the matter to several brother merchants, and he found that the feeling was universal, that if there was a necessity for any additional taxation, so far as the merchants were concerned, they would be most happy to bear their share. He had mentioned that in the Select Committee, and he now begged to state it again. The Select Committee had a disagreeable duty to perform in suggesting increased taxation, but the burden would be less if equally and fairly distributed. He concurred with the honorable and learned gentleman, that in all the matters mentioned in the Report, the Committee had been unanimous, and he was very glad that it was so, as it removed many difficulties from what might be a difficult matter to settle. As regarded the appointment of the Chairman, he was in favor of leaving the appointment in the hands of the Lieutenant-Governor, and he was glad to find that the Committee were of that way of thinking, and that they had been quite unanimous upon the subject. The appointment of the Chairman would cast a great responsibility on the Executive Government, for upon that appointment would depend in a great degree the good or bad working of the measure. With regard to raising loans, he certainly felt strongly that the whole burden of the construction of permanent and non-productive works, ought not to fall entirely upon the present inhabitants of Calcutta, but that posterity should bear its share. As to the proposal to apply the funds derived from the river bank to reduce the Port-dues, he could not agree with the honorable gentleman that it was entirely a selfish one, although

personally he was in favor of such funds being applied for the benefit of the Town generally. He himself, as engaged in commerce, was interested in the reduction of Port-dues, but at the same time, as a citizen of Calcutta, he was equally interested in any thing that would benefit the Town, and he felt bound to consider what would be for the benefit of the inhabitants generally.

MR. JENNINGS considered the question to be one of so much importance to the trading community, that he felt he should not be doing his duty if he did not in some measure give expression to the opinions which he entertained on the subject. As regarded the river bank, it might be made a fertile source of revenue, and he did not believe that there was a single obstruction in the River Hooghly which might not be removed by Engineering skill available on the spot, and he trusted that the Bengal Government would not lose sight of the importance of that question With reference to the license tax, he felt satisfied with the explanations which had been given, and he hoped that it would be so framed as to include all classes. He could not help agreeing with the honorable and learned gentleman near him (Mr. Peterson) in the opinion that 10 per cent. house-tax would be fully required to carry out the object they had in view. With reference to the appointment of a Chairman, he had always been of opinion that the selection should be left to the Government, for he had thought that the Justices would experience great difficulty in electing a man qualified for the post. The gentleman selected must be a man of the highest qualifications, and he felt satisfied that there was every desire on the part of the Government to look to the interest of the town.

Clause 5 of the 15th Rule for the conduct of business was then suspended by the President, and the Council proceeded to the consideration and settlement of the Clauses of the Bill commencing at Section 110.

Section 110 was passed with the omission of the words "and roads,"

Mr. Maitland.

and the substitution of the words "this Act comes into operation" for the words "of the passing of this Act;" and the Secretary was authorized to make similar amendments throughout the Bill.

Section 111 was passed with the substitution of the word "sanction" for the word "consent:" and the Secretary was authorized to make a similar amendment throughout the Bill.

On Section 112 being read—

MR. PETERSON said, he considered that the wording of the proviso regarding compensation for damage to the adjoining land was too large. It might include damage by deterioration of custom or by similar causes, and he would therefore move the insertion of the words "direct or immediate" before the word "damage."

The Motion was agreed to, and the Section as amended was passed.

Sections 113 to 124 were agreed to with a few unimportant verbal amendments.

On Section 125 (providing for the watering of the streets) being read—

MOULVY ABDOOL LUTEEF said, that there had been a very great complaint on the part of the residents of the northern division of the Town, that the main thoroughfares in their division were never watered, whilst the money which the Municipal Commissioners could spare from their funds for the watering of the streets was wholly and solely spent by them in the southern division of the town, under the discretion vested in them by a Section of the old Muncipal Act similar to Section 125 of the present amended Bill. As he thought that it was but just and fair to them that the main streets in their division should also be watered in the same manner as those in the southern division; and as the watering of all the main streets throughout the town would conduce much to the health, cleanliness, and comfort of the residents, he was very strongly of opinion that the watering of all the main thoroughfares should be made compulsory. With this view, he proposed as an amendment to substitute

the following new Section for Section 125:—

"The Justices shall cause the main streets throughout the Town to be watered; and, so far as the funds at their disposal will admit, and so far as they may deem requisite, shall also cause other streets to be watered, and for that purpose may provide such works and engines as they may think necessary."

THE HON'BLE ASHLEY EDEN thought the object the Hon'ble Member had in view would be obtained by the alteration of the Municipality. The contingency might arise of their being without funds, and if so, how could watering the streets be made compulsory?

MR. PETERSON saw no harm in the amendment, for in reality it meant nothing. It must be remembered that a great part of the cost of watering the streets in the southern division were defrayed by private individuals.

The amendment was negatived, and the Section agreed to as it stood.

Sections 126 to 131 were agreed to.

Section 132 was allowed to stand over until the next Meeting.

Sections 133 to 137 were agreed to with trifling verbal amendments.

On Section 138 being read—

MOULVY ABDOOL LUTEEF said, that as the Section referred to any door, gate, bar, &c., put up before the passing of the Act, he thought that a notice should be given to the owners to make the alteration within a specified period, and if they neglected to do so, the Justices should have the power of making the alteration themselves. He begged to move the omission of the Section in order to substitute the following:—

"If any door, gate, bar, or ground-floor window, put up before the passing of this Act, is hung or placed so as to open outwards upon any public street and cause an obstruction, the Justices may require the same to be altered within a month after notice, so that no part thereof when open shall project over any street so as to cause an obstruction, and if the owner thereof neglects to do so within that period, the Justices may alter the same themselves, and the expense thereof shall be paid by the owners and be recoverable as hereinafter provided."

THE PRESIDENT pointed out that the provisions of the Section only carried out what had been the law for a considerable period.

MR. ALLEN thought notice ought to be given to the owner, and he apprehended that much inconvenience and perhaps oppression might be the result, if the officers of the Justices were permitted to enter houses for this purpose without notice to the owners, and without giving them an opportunity of making the required alterations; he should therefore support the amendment.

MR BROWN considered the amendment wholly unnecessary, as, if any such door, &c., had been put up, it had been done in opposition to the law, and the owner had no claim to consideration.

THE HON'BLE ASHSEY EDEN wished to mention that there could be no such windows in existence unless there had been a breach of the law.

A division was then taken, when there appeared—

Ayes 4.	*Noes* 5.
Baboo Ram gopal Ghose	Mr. Jennings.
Rajah Pertaub Chund Singh	Mr. Brown.
	Mr Peterson.
Moulvy Abdool Luteef	The Hon'ble Ashley Eden.
Mr Allen.	The President.

The amendment was accordingly lost, and the Section with a verbal alteration, rendered necessary by the alteration of former Sections, was agreed to.

Section 139 was agreed to, the notice being altered from 8 to 15 days.

Sections 140 to 196 were agreed to.

Section 197, providing that all existing slaughter-houses should be registered, being read—

THE HON'BLE ASHLEY EDEN moved the omission of the Section on the ground that slaughter-houses in Calcutta were prohibited.

MR. PETERSON was not aware of the existence of any law prohibiting slaughter-houses in Calcutta. There could, he thought, be no harm in retaining the Section.

On the suggestion of the President, the consideration of the Section and

of the eight following Sections was postponed.

Section 206 was agreed to.

The consideration of Section 207 was postponed.

Sections 208 to 230 were agreed to.

The consideration of Sectin 231 was postponed.

On Section 232, providing that damages should be ascertained by two Justices of the Peace, being read—

MR. PETERSON considered that it was unreasonable to make the persons who had committed the damage the assessors as to its amount. The practice in such cases in England used to be that the damage should be assessed by the Sheriff's Court, and he would suggest that the Chief Judge of the small Cause Court should be substituted for two Justices of the Peace.

After some conversation the words "two Justices of the Peace" were expunged, and the words "a Judge of the Court of Small Causes" was substituted, and the Section so amended was agreed to.

The consideration of Sections 233 to 235 was postponed.

Sections 236 to 240 were agreed to.

The consideratoin of Section 241 was postponed.

Section 242 was agreed to.

Section 243, providing that the Act should come into operation on the 1st November, 1863, being read—

Some conversation arose as to the expediency of fixing the Municipal financial year in January, but ultimately the consideration of the Clause was postponed

The Council then adjourned till Wednesday, the 29th instant.

Wednesday, April 29, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

W. J. Allen, Esq.,	Baboo Prosonno Coomar Tagore
The Hon. Ashley Eden,	Baboo Ramgopal Ghose,
Moulvy Abdool Luteef Khan Bahadoor,	C. H. Brown, Esq., and
W. Maitland, Esq.,	F. Jennings, Esq.
A. T. T. Peterson, Esq.,	
Rajah Pertaub Chand Singh,	

MUNICIPALITY AND CONSERVANCY OF CALCUTTA.

THE HON'BLE ASHLEY EDEN moved that the Bill to create a municipal Corporation and to provide for the Conservancy and Improvement of the Town of Calcutta be further considered, in order to the settlement of the Clauses of the Bill.

The Motion was agreed to.

THE HON'BLE ASHLEY EDEN moved that the proviso in Section 140, having reference te sun-shades, be omitted.

THE PRESIDENT believed that the objection to the proviso was, that there were some streets not more than 6 feet broad, and in such places a projection of 3 feet on either side would entirely exclude the light.

The amendment was agreed to, and the Section as amended was passed.

The postponed Section 197 relating to slaughter-houses was, on the motion of Mr. Eden, struck out of the Bill.

The postponed Section 198 having been read—

THE HON'BLE ASHLEY EDEN moved the omission of the first part of the Clause down to the word "used" in the 18th line, with the view of introducing the following words:—

"No place shall be used as a slaughter-house within the Town, unless a license in writing for the use thereof as a slaughter-house has been obtained from the Justices, who are hereby empowered, at their discretion, from time to time, to grant such licenses; and whoever, without such license, uses as a slaughter-house, any place within the Town."

The Motion was agreed to, and the Section as amended was passed.

The postponed Sections 199 to 201 were agreed to with some unimportant verbal amendments.

Section 202, giving power to the Justices to destroy or forfeit all unwholesome food, or drink having been read—

MR. PETERSON pointed out that, by the following Section, a penalty could be inflicted in the case of persons exposing unwholesome food for

sale; in a climate like this, unwholesome drinks were no less injurious In Section 203, providing that Justices should have power to inspect markets, &c., power was given to inflict a penalty not exceeding Rs. 100 on all persons having unwholesome food in their possession; and in his opinion a similar power should be given in Section 202. The infliction of such a penalty would greatly tend to check the sale of damaged beer and other noxious drinks.

THE HON'BLE ASHLEY EDEN said that Section 273 of the Penal Code inflicted imprisonment for six months, or a fine of Rs 1,000, or both, on all persons exposing noxious food or drink for sale, and therefore he considered the amendment of the learned gentleman unnecessary

MR. PETERSON was of opinion that a summary remedy would be useful, but, admitting that no part of the Bill should be framed to alter in any way any provision of the Penal Code he would not move any amendment.

The postponed Sections 203 to 205 were agreed to with some verbal amendments.

The postponed Section 209 was agreed to with a verbal amendment

A slight amendment was also made in Section 218

The postponed Section 221, having reference to the power of making by-laws, having been read—

MR. PETERSON suggested the omission of the Section with a view to the subsequent settlement of a general Clause on the subject of by-laws

THE HON'BLE ASHLEY EDEN considered that the objects the learned gentleman had in view were already provided for in the Bill, and were also met by certain provisions of Act XIII of 1856.

After some further conversation—

MR. PETERSON said, he hoped that the matter might be allowed to stand over. At the next Meeting he would be prepared to move a Clause which he thought would meet the requirements of the case.

The further consideration of the Clause was accordingly postponed.

The postponed Section 231 was agreed to with a verbal amendment.

The postponed Section 233 having been read—

MR. PETERSON said that it having been agreed that in the case of damages the assessment should be left to a Judge of the Calcutta Court of Small Causes, instead of to two Justices, he would move that this Section be omitted in order to substitute the following:—

"In any case referred to a Judge of the Calcutta Court of Small Causes under this Act, it shall be lawful for the said Judge, on the application of either party, to summon the other party to appear before him, at a time and place to be named in such summons, and every such summons shall be served by delivering the original or a copy thereof to the person summoned, or by leaving the same at his usual place of abode with some adult male member or servant of his family. Upon the appearance of the parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such Judge to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such enquiry shall be in the discretion of such Judge, who shall determine the amount thereof

The Motion was agreed to

The postponed Sections 234 and 235 were agreed to with a few verbal alterations

The postponed Section 241 was agreed to, legally amended

The postponed Section 132 (having reference to the distinction between public and private streets) having been read—

THE PRESIDENT said, that, as the Section stood, it left owners of private streets at liberty to object to their being taken charge of by the Corporation Streets called "private" might, in reality, be streets on private property, through which there might be at the same time a public right of way or foot-path. It was therefore proposed to alter the Section in order to give the Justices power to declare a street through which the public might have a right of way, when paved, channelled, and sewered, to be a public street, and to keep it in repair out of the funds in their hands. With that

view he should move the omission of the proviso, and the insertion of the words "but being a street over which the public have or may hereafter have a right of way" in the 2nd line.

The Motion was agreed to and the Section as amended was passed.

MOULVY ABDOOL LUTEEF said, that Section 171 provided that, if the owner of any land or building neglected to keep the drains, &c., on such land in good order, the Justices might, after a notice of eight days, do so at his expense. This notice was in his opinion too short. Many heads of native families lived out of town, and it would be hard upon the females of the family to expect them to act in the matter. He should suggest fifteen days instead of eight.

THE HON'BLE ASHLEY EDEN did not see any necessity for the amendment. The absence of the owner of a house was no reason why a nuisance should continue for fifteen days, and in such a case as the one suggested, the Justices could act and charge the owner with the expenses incurred.

MR. PETERSON thought that eight days' notice was too long, and he should certainly, had the Clause not already received the sanction of the Council, have moved that the time be limited to 48 hours.

The amendment was then withdrawn.

BABOO RAMGOPAL GHOSE wished to point out that Section 170 provided that no necessaries should be allowed with trap-doors or windows opening on the streets. He thought this was a great hardship, as, unless such trap-doors or windows existed, in the houses of many of the poorer families the *Mehter* would have to pass through the central space used for all purposes, culinary as well as other, and his so doing would be painfully repugnant to their habits and feelings. Under these circumstances he begged to move the omission of the following words from the Section:—

"and it shall not be lawful for any owner or occupier to keep any privy with a door, window, or trap-door opening on to any street."

THE HON'BLE ASHLEY EDEN considered that these trap-doors were one of the chief causes of the filthy state of the native portion of the Town, and therefore would strongly oppose the amendment.

A division was then taken, when there appeared—

Ayes 5.	*Noes* 6.
Baboo Ramgopal Ghose.	Mr. Jennings.
Baboo Prosonno Coomar Tagore.	Mr. Brown.
Rajah Pertaub Chand Singh.	Mr Peterson.
Moulvy Abdool Luteef	Mr. Maitland
Mr. Allen.	The Hon'ble Ashley Eden.
	The President.

The amendment was accordingly lost, and the Section passed as it stood.

MOULVY ABDOOL LUTEEF moved the omission of certain words in Section 173, and was proceeding to state his objects when—

MR. PETERSON rose to order, and said that the Clause had already been settled by the Council.

THE PRESIDENT said that the Clause having been once settled by the Council, and there not appearing to be any sufficient reason for deviating from the Rule, the amendment could not now be moved.

The Council then proceeded to the consideration of the first part of the Bill.

Sections 1 to 7 were agreed to with some verbal amendments.

Section 8 having been read—

MR. JENNINGS proposed the substitution of the word "appoint" for the word "nominate," in reference to the person to be Vice-Chairman.

After some explanation, the Motion was by leave withdrawn.

Sections 9 to 12 were agreed to with some verbal amendments.

Section 13 having been read—

MR. PETERSON moved the insertion of words giving the Chairman, with the sanction of the Justices, power to give to the Subordinate Officers of the Corporation, absent on leave, such allowances as he should think reasonable.

The amendment was agreed to, and the Section as amended was then passed.

Sections 14 to 16 were agreed to.

Section 17 having been read—

BABOO RAMGOPAL GHOSE said that he considered the penalty disproportioned to the gravity of such an offence as accepting a bribe.

THE HON'BLE ASHLEY EDEN pointed out that the offence was provided for in the Penal Code, and in addition to the penalty there was the public disgrace of loss of place and character.

The Section was then agreed to, as were Sections 18 and 19.

Section 20, providing that notice of the meetings of the municipality be published in the daily English newspapers, having been read—

MR. MAITLAND proposed to add the words "and in two Native newspapers."

MR. PETERSON said that the notice was one which did not in any way affect the public, but only the Justices, and all of the native Justices were conversant with the English language.

MR. MAITLAND thought that it was most desirable that the object of all the Meetings should be made public, and notified to the rate-payers.

The Motion was then agreed to, and the Section as amended was passed

Sections 21 to 25 were agreed to

Section 26 (providing that a poll should be held if demanded by five Justices at any Special General or Quarterly Meeting, and by three Justices at any Special or Ordinary meeting) having been read—

BABOO RAMGOPAL GHOSE thought that a poll should be granted if any one of the Justices should demand it.

THE HON'BLE ASHLEY EDEN said that the Clause, as it stood, was better calculated to prevent any person, who might be so inclined, obstructing the course of business by unreasonably demanding a poll.

The amendment was then withdrawn, and the Section agreed to.

Sections 26 to 29 were agreed to.

Section 30, giving the Justices power to appoint Committees, having been read—

RAJAH PERTAUB CHAND SINGH suggested that the Chairman should be bound by the report of such Committees, and moved an amendment to that effect.

MR. PETERSON said, that for a Committee to control the action of the Chairman, would be against the principle of the Bill.

BABOO RAMGOPAL GHOSE quite agreed with the view expressed by the learned gentleman. The Bill could not work for six months upon such a principle.

The Motion was then withdrawn, and the Section passed as it stood.

Sections 31 to 36 were agreed to with some verbal amendments.

Section 37 having been read—

MR ALLEN considered that it would be a hardship to impose a tax of this kind on every horse belonging to Livery Stable-keepers and Horse Dealers, who were in the habit of keeping a large number of horses for sale, and not for use, he thought that these persons ought to be allowed to compound for their horses, in the same manner as Livery Stable-keepers have been permitted to compound for their carriages in Section 11 of the Bill.

THE HON'BLE ASHLEY EDEN pointed out that it was not intended to levy a tax upon any carriage kept for sale and not in use, but there was no reason why horses should be exempted.

MR PETERSON said, that the present amount of rates paid by Livery Stable-keepers did not pay the cost of the carts employed for removing the litter. He saw no reason why the tax should not be paid in respect of horses owned by horse dealers.

The Section was then agreed to.

Sections 38 to 46 were agreed to with some verbal amendments.

Section 47, providing that persons exercising any art, trade or profession in the Town should take out a license, having been read—

MR. PETERSON said that he could only repeat what he had said on a previous occasion, *viz*, that the Town wanted money, and the question then arose as to the best mode of

obtaining it. In his opinion, it would be better to impose a moderate license tax on a large proportion of the different classes of the community, than to levy the house tax at its maximum rate;—if that could be avoided. There were a very considerable number of persons who carried on business to a large extent without paying anything to the Town, either directly or indirectly. For instance, a barrister might carry on a large business in Chambers at a rental of from Rupees 50 to Rupees 60 a month, and if he lived at Garden Reach, or in any of the Suburbs of the Town, he would not have to contribute in any way to the funds of the Municipality. He would be at the same time making use of the streets of Calcutta, and he ought to be compelled to bear his fair proportion of taxation. There were a great many Joint Stock Companies, such as the Bengal Coal Company, the Assam Tea Company, and others, which also contributed nothing either directly or indirectly. Several shop keepers carrying on business in perhaps one compartment of a building, would pay comparatively nothing. Without adducing further instances, he would state his opinion that such a tax as a license tax ought to be widely extended. They could not do without the funds which would be raised by a license tax, and it would not be right to lay the tax upon small shop keepers and not upon the general body of the community. He proposed, therefore, to strike out the Section, with the view of substituting the following —

"On and after the 1st day of 1863, every person who shall, within the Town, exercise any of the professions, trades or callings specified in Schedule B to this Act annexed, shall take out a license and shall pay for the same such annual sum as is in the said Schedule B mentioned. Provided that for any such license which shall be granted before the 1st day of January 1864, there shall be paid only one-half of the said annual sum."

He asked the Council to adopt the principle that a moderate license tax should be levied on all. It might be said that the persons whom he now proposed to include paid in another way; but all the smaller class of shopkeepers paid assessed taxes in the same proportion. When they came to the Schedules, he would propose a rate which he considered would meet the circumstances of the case. In London there were sworn brokers who paid a tax, and certain professional persons also paid taxes, and there was no reason why a similar principle should not be extended to all persons carrying on any trade or profession in Calcutta. His proposal might be regarded with disfavour by some of the public, but he had thought it better that it should emanate from a non-official Member like himself than from a representative of the Government. Unless the Corporation were to become involved in debt and difficulty, it was absolutely essential to provide at first ample means to carry out the object they had in view, taking every possible care that the money collected should be expended with due regard to economy. He believed that the amendment he proposed was absolutely necessary to raise funds to enable the Justices to carry on the works necessary for the improvement of the Town.

MR. JENNINGS approved of the amendment. The principle was one of the greatest importance, and he hoped to see it thoroughly carried out.

MR. MAITLAND could only repeat what he had said at the last Meeting. For his own part, speaking for himself and the class to which he belonged, he could only say that they would be most happy to bear their share in any burden which the Council might consider necessary. He might add that the question had been considered in the Select Committee, but it had been felt to be of so much importance, that it had been resolved to reserve the question for the decision of the Council generally.

MR. BROWN supported the amendment.

BABOO PROSONNO COOMAR TAGORE thought that great difficulty would be experienced in the classification. Did the word "shop-keeper" refer to a native shop? There was the

expression "keeper of a stall in a public market,"—did that apply to a temporary or permanent keeping? He objected to the general principle of taxing all trades and professions; he fully appreciated the object the learned gentleman had in view, but he thought that the proposal was erroneous in principle.

The amendment was then agreed to.

Section 48 was, on the motion of the President, struck out.

Sections 49 to 56 were then agreed to with some unimportant alterations, with the exception of Section 52, which was struck out.

The Council then adjourned until Saturday, the 2nd of May.

Saturday, May 2, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding*

J. Graham, Esq., *Acting Advocate-General*	Rajah Pertaub Chand Singh
W. J. Allen, Esq.	Baboo Prosonno Coomar Tagore
The Hon. Ashley Eden.	Baboo Rungopal Ghose.
Moulvy Abdool Luteef Khan Bahadoor	C. H. Brown, Esq., and
W. Maitland, Esq.	F. Jennings, Esq.
A. T. T. Peterson, Esq.,	

The Acting Advocate General took the usual oaths and his seat in the Council.

MUNICIPALITY AND CONSERVANCY OF CALCUTTA.

On the Motion of the Honorable Ashley Eden, the further consideration of the Clauses of the Bill to create a Municipal Corporation, and to provide for the Conservancy and Improvement of the Town of Calcutta, was resumed.

Section 57 (fixing the rate on houses, buildings, and lands) having been read—

MR. PETERSON objected to the Clause as it at present stood. He considered it was a great mistake to establish a fixed rate of two Rupees a cottah upon unappropriated land. In many cases unappropriated land would, if assessed, be liable to a much heavier rate, and he considered that two Rupees was far too small a limit. He should therefore suggest that, instead of the words "a fixed rate not exceeding two Rupees for every cottah" the following words be substituted,—"having regard to the annual value thereof."

THE HON'BLE ASHLEY EDEN said, that the first part of the Section provided for a rate upon the annual value of all houses, buildings, and lands, but there was a very large extent of land and plots of huts, of which it was very difficult to find the actual value, in consequence of their never having been assessed. In the ordinary course of events, they could not be assessed for the next three or four years, and therefore a fixed rate not exceeding two Rupees a cottah had been fixed, and this could be levied in lieu of the regular house tax at the option of the Justices. It could only be regarded as a provisional arrangement, pending the completion of a regular *ad valorem* assessment of native property throughout the city. He was quite prepared to admit that two Rupees was a very low estimate, but it was considered advisable to secure something, however trifling, pending the new assessment. Wherever the houses were obviously valuable, the Justices would assess them as a matter of course, instead of taking the fixed rate.

MR. PETERSON thought that the limit of two Rupees per cottah might well be increased to four Rupees, and he therefore moved that the Section be so amended.

THE HON'BLE ASHLEY EDEN had no objection to the alteration. He might mention that it had been proposed, in the first instance, to fix the rate at one Rupee for every hundred superficial feet.

MR. PETERSON pointed out that that would amount to a rate of seven Rupees a cottah.

The motion was then agreed to, and the Section as amended was passed.

Sections 58 and 59 were agreed to.

Section 60, regarding vacant houses, having been read—

MOULVY ABDOOL LUTEEF said, that he did not think Section 60 ought to stand as it did at present. There was no reason why owners of houses, from which nothing was realized, should be subjected to any assessment at all during periods of their non-occupancy. The old law, which during such periods exempted them from assessment altogether, was more equitable. If half the proper assessment were insisted upon, he did not see why not any other fractional part, or indeed the whole. Nor would any material benefit accrue from the innovation. He had ascertained from Mr. Rowe that the total amount lost to the Municipal Funds from the non-occupancy of houses, was about 11,000 Rupees a year, half of which made 7,000 Rupees; that was a poor return for the trouble and vexation which the half assessment measure would be sure to cause, and he would therefore propose that the words "not exceeding one half" in the 5th line be omitted.

MR. PETERSON said that the question had been very fully discussed in the Select Committee. He had originally been much of the same opinion as the Honorable Member, but very good reasons had been given for proposing some rate upon occupied houses. He would suggest that the words "two-thirds" be substituted for one-half.

BABOO PROSONNO COOMAR TAGORE supported the view taken by the Honorable mover of the amendment, and added that in the native quarter of the city it was a common practice to shut up the Town residences and reside in the country. It must be remembered that the tax was a Municipal tax, and not a property tax.

THE HON'BLE ASHLEY EDEN thought that the fact of its being a Municipal, and not property tax, was the strongest reason that could be given in favor of levying a rate upon unoccupied houses. It must be remembered that the houses being occupied or not, the repairs and improvements of the city must be proceeded with, and if unoccupied houses were allowed to escape the tax in the way suggested, the means at the disposal of the Municipality would be very much diminished. The Justices could not dispense with the services of any of their establishment, because houses happened to be vacant. He held that owners of unoccupied houses should, at any rate, be held liable for one-half the tax.

THE PRESIDENT was in favor of retaining the Clause as it at present stood, for he did not consider that non-occupation was a sufficient ground for exemption from rates.

A division was then taken, when there appeared—

Ayes 5.	*Noes 7.*
Baboo Ramgopal Ghose	Mr. Jennings.
Baboo Prosonno Coomar Tagore.	Mr. Brown.
Rajah Pertaub Chand Singh	Mr. Peterson.
Moulvy Abdool Luteef	Mr. Maitland.
Mr. Allen.	The Honorable Ashley Eden.
	The Acting Advocate-General.
	The President.

The amendment was accordingly lost, and the Section agreed to.

Section 61 was passed after verbal amendments.

Section 62 was agreed to.

Section 63, regarding the water-rate, having been read—

MR. PETERSON moved as an amendment that the water-rate be fixed at two and a half per cent. instead of two per cent., as proposed: the former rate was the minimum either in England or elsewhere, and when it was borne in mind that a very considerable outlay would have to be made before an effective water system could be introduced in Calcutta, he thought that two and a half per cent. should be fixed as the minimum rate. He might add that England was the only place where the water-rate was as low as two and a half per cent.

THE HON'BLE ASHLEY EDEN pointed out that, practically, two per cent. was not the minimum rate, because in the southern division of the town the water would have to be supplied at a high level, and the rate would be proportionately increased: it

would be as high as 6 per cent. in a three-storied house.

MR. ALLEN opposed the amendment. The rate had been fixed by the Select Committee, and he saw no reason to alter it.

A division was then taken, and there appeared—

Ayes 1.	*Noes* 11.
Mr. Peterson.	Mr. Jennings. Mr. Brown. Baboo Ramgopal Ghose. Baboo Prosono Coomar Tagore. Rajah Pertaub Chand Singh. Mr Maitland. Moulvy Abdool Luteef. The Honorable Ashley Eden. Mr Allen. The Acting Advocate-General. The President.

The amendment was accordingly lost, and the Section agreed to, as were also Sections 64 to 69, with some verbal alterations.

Section 70, regarding valuation and measurement, having been read—

MR PETERSON said that he did not see any provision for a regular Survey of the Town, he should therefore move that the concluding portion of the Section be struck out, with the view of placing it at the beginning of a new Section which he intended to move, to carry out the object which he had in view.

After some conversation the concluding portion of the Section was struck out, and the Section as amended agreed to.

On the motion of Mr. Peterson, the following Section was then introduced:—

"The valuation which, at the date of this Act coming into operation, shall stand entered in the book kept at the Office of the Municipal Commissioners under Section V of Act XXV of 1856, shall be taken to be the first valuation made under this Act, until such time as the Justices shall cause a new valuation or a measurement to be made, and the Justices shall, immediately after this Act comes into operation, proceed without delay to make a valuation of all lands, houses, tenements, and premises within the Town, and for such purposes shall divide the town into such and so many districts as they may think fit, and proceed to make a separate valuation district by district, and the same, when completed, shall be entered in the said book kept at the Office of the Justices."

Sections 71 to 77 were agreed to with verbal amendments.

The consideration of Section 78 was postponed.

Sections 79 to 89 were agreed to with some verbal amendments.

Section 90, regarding the drainage of the Town, having been read—

MR JENNINGS said that it was most desirable that the action of the Justices should be fettered as little as possible, and he should therefore move that the words "as shall be directed by" be omitted, and the words "as they shall think desirable, subject to the approval of the Lieutenant-Governor" be inserted.

The amendment was agreed to, and the Section passed as altered

Section 91 having been read—

MR. PETERSON suggested an amendment to the effect that property within the environs of the Town included in the system of drainage, should be assessed at a higher rate than was proposed by that Section.

THE PRESIDENT said that he had a strong opinion that the limits of the Town of Calcutta would sooner or later be considerably extended. Under these circumstances, he thought that the honorable and learned Member might see fit to withdraw his amendment.

The amendment was withdrawn, and the Section agreed to.

At this period of the proceedings, Mr. Brown asked the President to postpone the consideration of Sections 92 and 93 until after the consideration of the rest of the Bill.

Section 94, relating to the mortgage of rates, having been read—

MR. PETERSON pointed out that considerable difficulty might arise with regard to the question of Stamps upon the transfer of Mortgages.

After some conversation, the consideration of the Clause was post-

poned to the next Meeting, the Advocate General undertaking to consider the matter with a view of framing a Section which would meet the difficulty.

Sections 95 to 109 were agreed to.

The postponed Section 221, empowering the Justices to make certain bye-laws, having been read—

MR. PETERSON moved the omission of the Section and the substitution of the following:—

"It shall be lawful for the Justices from time to time to make bye-laws, and to repeal, alter, and amend the same, subject to the confirmation hereinafter mentioned, for the several purposes for which bye-laws are authorized by this Act to be made, and also to make bye-laws, and to repeal, alter, and amend the same, subject to such confirmation, for the guidance and control of persons employed by them, and for preserving order and cleanliness in the Town, and for carrying out any of the purposes of this Act. Provided that no such bye-law shall be repugnant to any law in force, and that no penalty for any one infringement of such bye-law shall exceed twenty Rupees, and that in the case of a continuing infringement, no penalty shall exceed ten Rupees for each day after notice from the Justices of such infringement."

The motion was put and agreed to

The postponed Sections 222 to 226 were agreed to with some verbal amendments.

MOULVY ABDOOL LUTEEF begged leave to go back to Section 216 He thought that the 24 hours' notice provided for in that Section was insufficient, so far as the Hindoo and Mahomedan Zenanas were concerned. It might often happen that the occupants of a Zenana might receive notice of the intention of the Municipal Officers to enter it, just about the time the male members of the family were absent from home, or gone out of Town, and it would, in such case, be exceedingly hard and inconvenient for the females to vacate the house or remove themselves elsewere, within so short a time as 24 hours. Nothing would be lost by the concession, while a very proper regard would be shown to a sensitiveness on the part of the respectable classes of the native community, which deserved considerate treatment. He would therefore move that the words "or in the case of Native Zenanas, without giving three days' previous notice of such intention" be added to the Section.

THE PRESIDENT said that a provision similar to Section 216 had been in force for many years, and he was not aware that any inconvenience had resulted from it.

After some further discussion, the Council divided—

Ayes 5.	*Noes* 5.
Mr. Brown.	Mr. Jennings.
Baboo Prosonno Coomar Tagore.	Mr. Peterson.
Rajah Pertaub Chand Singh	The Honorable Ashley Eden.
Moulvy Abdool Luteef	The Acting Advocate-General
Mr. Allen.	The President.

The numbers being equal, the President gave a casting vote with the Noes, and the motion was negatived.

Schedule A was agreed to.

Schedule B having been read—

MR. PETERSON said, that he did not wish to repeat what he had said on previous occasions, but he must impress upon the Council the importance of the subject. The provisions of the Schedule, as it at present stood, embraced a very small number of persons. In the proposal he was about to make, with a view of including all classes of the community, he did not anticipate much opposition, because he believed that scarcely a member of that assembly, and very few persons outside, would object to a tax which might be made so beneficial Unless the principle which he advocated was adopted, he did not think that they would be able to raise nearly the amount which they required. He proposed that Joint Stock Companies should form Class No. I, and should be taxed at the rate of a hundred Rupees a year. There were Joint Stock Companies springing up every day, for trading purposes of every variety, and he did not see why they should not be brought within the operation of the tax. He proposed that Class No. II should comprise, in addition to those now in Class I, every Merchant

Banker, Shroff, wholesale Trader, Commission Agent, Surgeon, Physician, Practising Barrister, Attorney, Proctor, Notary Public, and Pleader of the High Court, and that the rate should be fixed at fifty Rupees a year. What was now class II he proposed to convert into class III. It had been suggested to him that some dalalls were making very large incomes, but he thought upon the whole that it would be fairer to the general body to place them in class III If native dalalls were placed in class III, it seemed only fair that English brokers should be placed upon the same footing He proposed to retain classes III and IV as they were, converting them respectively into classes IV and V And he proposed that "itinerant dealers" should be taken out of class V, and form a sixth class, paying only one Rupee a year. Of course it would be competent for any member to suggest alterations in the details, but he asked the Council to give its assent to the general principle of the Schedule

THE PRESIDENT said that it would be most desirable that the Council should, on the present occasion, adopt the principle of the Schedule, and that honorable members should suggest such alterations of detail as they might think fit. The Schedule would then be printed, and at the next meeting the details could be fully discussed.

MR. BROWN suggested that the word "publishers" should be included in class III.

THE HON'BLE ASHLEY EDEN quite concurred in the amendment

MR. PETERSON said, that on large publishers a tax of 50 Rupees would not fall heavy, but it might prove very injurious to a number of small native newspapers, which he was glad to see springing up.

THE PRESIDENT thought that if the words "or trader" were inserted after "shop-keeper," it would include publishers.

The amendment was then agreed to.

MR JENNINGS thought that boarding-house-keepers obtained a very precarious livelihood, and that fifty Rupees would prove a very heavy burden. He would therefore move that they be removed from class II to class III.

THE HON'BLE ASHLEY EDEN said that his experience led him to a contrary conclusion. He knew of one case, in which a boarding-house-keeper was competing with the Government for a house at a rental of 800 Rupees a month.

After some conversation, the Council divided :—

Noes 3.	*Noes* 7.
Mr Jennings	Baboo Prosonno Coomar Tagore.
Mr Brown	Rajah Pertaub Chand Singh
Mr. Allen	Mr. Peterson.
	Moulvy Abdool Luteef.
	The Hon. Ashley Eden.
	The Acting Advocate General.
	The President.

The motion was accordingly lost.

The remaining classes of the Schedule were agreed to, with some additions, as were also the remaining Schedules.

The Council then went back to the consideration of Section 92, which provided that the Justices might erect wharves, jetties, and quays on river or canal banks.

MR BROWN said, that he did not wish to again raise the question as to the right of property in the river bank, but he rose simply to express his opinion that a Board of Justices was not a body properly constituted to manage that property. It was said that the Justices would have power to appoint a Committee, and they would, no doubt, appoint to it persons best qualified to deal with the matter. Still he thought that, however careful the Government might be in the selection of a Chairman of the Justices, it would be impossible to find a man to do all that was required to be done for the river bank, and at the same time adequately to discharge the multifarious duties of Chairman. It was a question to be decided elsewhere, as to who should derive the benefit of the

river bank, but he believed that the general feeling was in favour of the appointment of a Trust. He begged, therefore, to move the omission of the words "river or" from the 6th line of the Section.

MR. MAITLAND thought that the Clause involved two questions, namely, who was to have the benefit to be derived from the river bank, and, secondly, who was to manage the property. After giving the matter some consideration, he agreed with his honorable friend that property of this nature would be managed better by a Trust than by a Board of Justices. The subject had been submitted to the Chamber of Commerce, and all the Members of that body had felt its importance. He believed that the opinion of most of the Merchants was in favour of the benefit going to the Town, and of the property being managed by a Trust. It must be borne in mind that, although the Justices could appoint a Committee, it would be necessary for the Chairman to be the managing man, and he felt very much disposed to think that it would be better to appoint a separate body with a separate Chairman. At the Meeting of the Chamber of Commerce held on the previous day, it was determined to call a Special Meeting to consider the subject, and he thought that it would be advisable for the Council to allow the matter to stand over till the next Meeting, in order to allow time for the Merchants to express their opinion.

MR. PETERSON was sorry to hear this question revived, but he could not help saying that if any attempt was made by that Council to legislate for the property of others, it would be going *ultra vires*. If the property was the property of the Town, no one else had right to deal with it. To put an illustration. Suppose his honorable friend were possessed of a river frontage of 500 yards in length as his own property, and wished to erect wharves and conveniences for landing, what would he say if that Council stepped in and said that the property would be best managed by a body of six Merchants and four Shipmasters. The Clause did not assert any right to the river bank, but it simply said that it should be lawful for the Justices to manage their own property. Questions might arise as to the right of Government to the land covered by the flow and reflux of the tide, and also on other points, but this Section did not affect such subjects. Suppose it were declared that the property in the river bank belonged to the Town, with what show of justice could the Council say to the Town "you shall not manage your own property?" If the Council attempted to alter Section 92, it would become necessary to alter Section 4. But in neither Section was any alteration requisite, for neither Section did more than deal with such property as might belong to the Town, deciding no question as to what that property was. He must point out, that if the Government held the bank for or on behalf of the Secretary of State, Section 92 would be without operation as regarded it, for the whole effect of it was to enable the Justices to levy dues to cover any outlay they might incur in repairing the property of the Town. Section 4 provided that all lands, buildings, works and hereditaments, utensils, materials, books, plans, maps, papers, effects, monies, securities, and other property, moveable and immoveable, of what nature or kind soever, and all interest therein, whether vested, contingent, or in remainder, which should, on the 1st day of November, 1863, be vested in or held in trust for the Municipal Commissioners appointed under Act XXVIII of 1856, should become the property of the Justices. He could only repeat that if the bank were the property of the Town, the Town, and no one else, had a right to deal with it, and if it belonged to the Government, the Town could only deal with it on such terms as they could make with the owners. They ought not to attempt to legislate with regard to private property nor was it their province to exp[illegible]nd the law, and he could not see how the

Chamber of Commerce could do so. Let them get the river bank before they legislated with regard to it, or in other words, if he might be allowed the expression, catch the hare before they divided the spoil; for if the bank did not belong to the Town, they could only come forward, *pari passu*, with any one else. No doubt the opinion of the Chamber of Commerce was very valuable as to the management of the bank, but neither the Chamber of Commerce, nor any other similar body, could settle the question as to the right of property in the bank.

MR. BROWN could not recognize any hardship in the amendment so proposed, for, in his opinion, the Section did exactly what the honorable and learned gentleman recommended the Council not to do. All he wished was that the Council should defer the consideration of the management of the river bank, until it should be ascertained whose property it was, and he had no idea, in any way, of asking the Council to commit itself to an opinion on that subject.

MR. MAITLAND said, that the honorable and learned gentleman seemed to think that the subject admitted of no doubt, but, in his opinion, it raised a question of very grave doubt as to the best mode of managing the property. In fact great doubt was entertained by the Government of Bengal upon the subject, and they had referred the question, as to the advisability of establishing a separate Board, or placing the bank under the management of the Justices, for the opinion of the Chamber of Commerce. He would beg to call the attention of the Council to the last part of the Section. It provided that "it shall be lawful for the Justices to levy upon all goods shipped or landed at any such quays, wharves, or jetties, wharfage and porterage fees, according to a scale to be laid down from time to time by the Justices, with the sanction of the Lieutenant-Governor of Bengal." Now, under that power, if the Justices were disposed to spare the Town at the expense of its commerce, they could undoubtedly do so, and therefore he did not think that the course of action adopted by the Merchants of Calcutta could be characterized as selfish, as it had been on a former occasion.

THE HON'BLE ASHLEY EDEN looked upon the amendment as an endeavor to bestow upon a part of the community what really belonged to the whole. The Section, as it stood, avowedly dealt with property which belonged to the Town of Calcutta, and he failed to understand how any of it could be taken away for the benefit of any small portion of its inhabitants. It was not attempted to decide in that Section, what land did or what did not belong to the Town. If it did, there might be room for discussion as to the right of the Town to a particular part of the river bank. But there was no allusion to the Strand or any other place. It simply declared how the Town might deal with its own property. If the amendment were carried, how long would it be before another application would be made for the management by a Commercial Trust of tramways from the railways to the Custom House, on the ground that special knowledge was required to manage roads employed in the conveyance of merchandise. There were already indications of an attempt to obtain the management of such lines, and if these concessions were made, there was great reason to apprehend that gradually all the valuable property of the Town would come to be applied for the benefit of a section of its inhabitants. It was said that the Justices might under-assess the Town and make up the deficiency by heavy tolls on goods landed on the river bank, but many of the Justices would themselves be Merchants, and he saw no reason to apprehend that such would be the case. It was very desirable that the question should be settled, and he certainly felt that the Justices had a right to deal with their own property. With regard to what had fallen from the honorable gentleman (Mr. Maitland), he could only say that, although the Lieutenant-Governor had invited an expression of opinion from the Chamber of Commerce, that did not show that

the Government entertained any doubt as to the right of the Town to manage its own property.

Mr. BROWN hoped that the Council would absolve him from any desire to see the property of the Town applied for the benefit of any section of the community. It was quite possible that a Trust might manage the property in a manner which would be most for the benefit of the Town.

Mr. MAITLAND thought that what had fallen from him had been somewhat misapprehended. He could only repeat that the Government had asked the Chamber of Commerce for their opinion on the desirability of placing the management of the bank in the hands of the Justices, or of a separate Board, and if they had made up their mind on the point, why should they have adopted such a course? He considered that the course adopted by Government in asking for the opinion of the Merchants of Calcutta was a very proper one, but still it implied a doubt, the honorable gentleman (Mr. Eden), if he might be allowed to say so, appeared to him to be somewhat harsh in his observations when he made general charges of selfishness, and he could only say that he had no desire to see the property managed in any other way than for the benefit of the public generally.

Mr. JENNINGS strongly opposed the amendment, because he felt sure that the principle of the Clause was a correct one.

THE ADVOCATE GENERAL would suggest that the discussion was rather premature, as by the Bill no property at all was vested in the Justices that did not already undoubtedly belong to the Town. He thought that the whole difficulty might be disposed of by a slight verbal alteration, and he should therefore move that the words "held by the Justices, as the property of the Town" be omitted, in order to substitute the words "which may belong to the Justices." No doubt the property in the Strand bank stood on a peculiar footing, but the Section did not affect the question, whether the property belonged to the Secretary of State or to the Town. With regard to the argument of the Honorable Member who moved the amendment, he did not think that they were in a position to form a correct judgment as to the respective merits of the two schemes, namely, of forming a River Trust, or of placing the river bank in the hands of the Justices. The arguments used applied only to the Strand bank, but in point of fact the Section was perfectly general, and there must be other portions of land which would come into the possession of the Justices. If the Council agreed to the insertion of the words he proposed, the question of the right of property would still remain open, and he thought that the present difficulty would be got over.

THE PRESIDENT did not think that the Section as it stood, and still less as it was proposed to be altered by the Advocate General, gave rise necessarily to the discussion which had been raised. The question as to whether the Strand road and Strand bank be the property of the Government or of the Town, was a very difficult one, involving much research, and he was not prepared to express a decided opinion on the subject. The matter would be settled with the assistance of the law officers of the Government. If the land belonged to the Town, he did not know that there was anything to prevent the Executive Government from coming to this Council to ask for a law to enable them to have wharves and other works constructed along the bank under the supervision of a special Trust, though in that case the Government would certainly have to pay the Town for its land: while, on the other hand, if the land belonged to the Secretary of State, it was clearly open to the Government to carry out the works by means either of a separate Trust or of the Municipality, according to what might appear to be best for the interests of the community at large. In 1854 a promise was given by the Government of Lord Dalhousie, on the assumption that the bank was the property of the Government, that the Strand bank should never be

The Honorable Ashley Eden.

devoted to any purpose except to promote the health and convenience, as well as the trade and commerce of the Town, and, indeed, the title of the Government to the land rested, in some measure, upon this condition. He wished to correct an erroneous impression likely to be made by a statement that had been made in one of the newspapers, that the question whether the conservancy of the Port of Calcutta should be entrusted to the Municipality of Calcutta or to a special Trust to be appointed by the Government of India, was a question in dispute between the Government of Bengal and the Supreme Government, and that he (the President), under the influence of some motive apart from the real merits of the question, was in favor of the former plan. Now, in the first place, no question had arisen between the Government of India and the Government of Bengal with regard to the Conservancy of the Port. It had never been proposed that the management of the Port and river establishments should be placed in other hands than those of the Government and its officers. It might possibly at some time be advantageous to put the management of these establishments and the Conservancy of the Port from the Sandheads to Calcutta under an independent Board, but he did not himself think that at present such a change would work well for the interests of the Port and Shipping. At any rate the question had not arisen. The real state of the case was this. The Members of this Council were aware of the discussions that had, from time to time, taken place, and the various projects that had been brought forward for the construction of jetties, or a wharf-wall, along the river bank from Chandpaul Ghaut, northwards, and for the improvement of the bank from Tolly's Nullah to the Lock Gate. His predecessor, Sir John Peter Grant, appointed a Committee to enquire into the whole subject, and that Committee made a most valuable report, recommending the construction of a wharf-wall from Chandpaul Ghat to Ahcerecotolah. That scheme, he had no doubt, was the best scheme; but when it was submitted to the Government of India, and they were asked to supply funds, it was felt that the work was far too costly, and the expense would be far too great for any local object, however important. A suggestion was then thrown out that the works could be carried out by a Trust, with money borrowed on the security of the river bank and the rates leviable. The Council would remember that on the 12th of December last, the scheme before the Council for establishing a Municipality by creating a Corporation of Justices had not been matured, and that it was uncertain whether it would be favorably received. At that time he had instructed a letter to be written on the subject to the Supreme Government, in which the following passage occurred—

"The Lieutenant Governor is also of opinion that it would be very advantageous for the City and for the Government to constitute a Trust for the Port and City of Calcutta, to undertake the management of all works for the improvement of the Strand and river bank between the Lock of the Circular Canal and Tolly's Nullah, and also possibly for the improvement of the communications between the river bank and the Bengal Railways at Sealdah, so that the shipping may be connected therewith.

The Board of Trust should, in the opinion of the Lieutenant-Governor, be so constituted as to represent the Government interests—Engineering, Customs, and Marine—the Commercial, Trade, and Shipping interests, both European and Native, the Street or Municipal interest, and perhaps the Railway interest; and the limits of the undertaking to be vested in the Trustees must be accurately defined."

In this suggestion for the creation of a comprehensive Trust the Government of India had agreed, and so far as the correspondence had gone, the Government of India and he were entirely of one accord.

It was his opinion, at the time when that letter was written, that it would be desirable to place the management of the works in the hands of a Trust. And certainly, whether the river bank belonged to the Crown or to the Town, he should prefer to see the manage-

ment of it, and the construction of works connected with it, in the hands of a Trust, rather than in the hands of the existing Municipal body. But now that it was intended to have a Municipality composed, as far as it could be, of the same class of persons who would have composed the Trust, there were many cogent reasons why the works should be undertaken by the Municipal body, which would represent the whole of the community. He had therefore addressed the Chamber of Commerce and had asked for an expression of their views, as to whether the proposed Trust should be a separate body, or whether it had better be confided to the Municipality as proposed to be constituted by the Bill now before the Council. That was a fair question on which he would be glad to receive the opinion of the Chamber and of others interested in the subject, before he submitted a definite proposal to the Council. The question was one which ought to be fully discussed before any final step was taken; but at the same time he wished to point out that Section 92 did not affect the question at all. If the amendment of the Advocate General were adopted, the Justices would only have power to make wharves and jetties upon lands which might come into their hands, and it did not assert any right of property in the bank; and it must be remembered also that any such work must receive the sanction of the Lieutenant-Governor,—a sanction which could not be given in opposition to any expressed views of the Government of India. He did not deem it necessary to say anything with regard to the motives which had been attributed to him, for he trusted that the Council would feel that he had been actuated solely by a desire to promote the public good. There had, he would repeat, been no conflict of opinion between the Government of India and the Government of Bengal as to whether the works should be undertaken by the Municipality or by a special Trust. If it were resolved to confide the works to a Trust, it would have to be formed by the action of that Council, and the Members who composed it would have to be appointed by the Lieutenant-Governor, and would probably be selected in much the same way as the Justices. The position of the Government of Bengal in either case would be precisely the same. He could not conceive upon what principle any one could contend that an undertaking of a purely local character, however important, should be placed under the direct control of the Government of India, which might be in Calcutta or at Simla, or in any other part of India, rather than under the local administration, which must, in such matters, be guided chiefly by local public opinion, and could take no step without the consent of this Council. But as this proposition had not been seriously made, he need not attempt to confute it. He had only risen to explain how the matter stood, and to point out that the discussion which had taken place on the amendment did not necessarily arise upon the Section.

MR. BROWN said, that after the explanation which had been given by His Honor, for which the Council was much indebted, he did not wish to press the question, and should therefore, by leave, withdraw his amendment.

MR. MAITLAND also begged to express his thanks to the President for his explanation, and to express his satisfaction that, after it, his honorable friend had not pressed his amendment.

The Section, as amended on the motion of the Advocate General, was then agreed to, as was also Section 93.

In the postponed Section 243, the first day of July 1863 was inserted as the date of the commencement of the Act; and the Secretary was instructed to alter all the dates in the Bill so as to bring them in accordance with the date fixed for the Act to come into operation.

The Council then adjourned to Thursday, the 7th instant, at 11½ A. M.

The President

Thursday, May 7, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

J. Graham, Esq., *Acting Advocate Genl.*,
W. J. Allen, Esq.,
The Hon. Ashley Eden,
Moulvy Abdool Luteef Khan Bahadoor,
W. Maitland, Esq.,
A. T. T. Peterson, Esq.,
Baboo Prosonno Coomar Tagore,
Baboo Ramgopal Ghose,
C. H. Brown, Esq., and
F. Jennings, Esq.

MUNICIPALITY AND CONSERVANCY OF CALCUTTA.

On the Motion of the Honorable Ashley Eden, the further consideration of the Clauses of the Bill to create a Municipal Corporation and to provide for the Conservancy and Improvement of the Town of Calcutta, was resumed.

On the Motion of the Honorable Ashley Eden, the interpretation of the word "person" in Section II was altered, so as to include "an association or body of persons, whether incorporated or not."

In Section 17 all the words providing against the Chairman and other Officers (who would be liable as public servants under the Penal Code) exacting or accepting fees or rewards, were struck out, and the following words were added to the Section:—

"And if any person employed under this Act, not being a public servant within the meaning of Section 21 of the Indian Penal Code, shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, with the Justices, or with any public servant, or with the Government, as such, shall be punished with imprisonment, either simple or rigorous, for a term which may extend to three years, or with a fine not exceeding five thousand Rupees, or with both."

Section 35 was struck out, and the following Section substituted:—

"Whereas the assessments last made under the said Acts XXV and XXVIII of 1856, include the months of July, August, September, October, November, and December, 1863, and power is given by this Act to impose and levy rates upon the owners and occupiers of the same houses, buildings, and lands which were subject, before the passing of this Act, to the said assessments, for a period including the same months, it is hereby enacted that any sum of money which would have become due from any owner or occupier in respect of the said assessments for the several months aforesaid, may be levied and recovered by the Justices in like manner as the same might have been levied and recovered if this Act had not been passed, unless the Justices shall impose and levy any other rate under the provisions of this Act."

Verbal amendments were made in Sections 68, 70, 74, and 76.

The concluding portion of the postponed Section 78 was struck out.

The postponed Section 94, relating to the mortgage of Rates, having been read—

THE ACTING ADVOCATE GENERAL said, that he had drawn up Clauses upon which he wished to take the sense of the Council. One mode of dealing with the question was that adopted under the Municipal Improvement Act, namely, to issue mortgages of the Rates transferable by the ordinary mode, and liable to transfer duty. Another plan which occurred to him was to borrow money by way of Debenture issued in the form of a Promissory Note, which would be transferable by simple indorsement. He was informed that if the latter plan were followed, the security might not be considered so good by some persons, as it would be if the instrument were more formal. The Sections which he had drawn were as follows:—

"For the construction of works of a permanent nature under this Act, the Justices may, with the sanction of the Lieutenant-Governor of Bengal, from time to time, borrow by way of debenture, on the security of the rates, taxes, and dues imposed and levied on account of the Municipal Fund under this or any Act passed in that behalf, or of a portion of them, and at such rate of interest and upon such terms as to the time of repayment and otherwise as the

said Lieutenant-Governor may approve, any sums of money the Justices may require for the objects aforesaid.

"All the debentures aforesaid issued under the authority of this Act, shall be in the form contained in the Schedule ( ) to this Act, and shall be transferable by indorsement, and the right to sue in respect of the moneys secured by any of such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

"The Justices may, at any time, with such consent as aforesaid, raise by the issue of new debentures, any money that may be required to pay any moneys for the time being due on any debentures issued in pursuance of this Act."

The form of the Schedule would be—

"SCHEDULE.

THE JUSTICES OF THE PEACE FOR THE TOWN OF CALCUTTA.

No.

By virtue of the Act No. of 1863 of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations, we, the Justices of the Peace for the Town of Calcutta, incorporated under the said Act, in consideration of the sum of Rupees paid to us by A B of , promise to pay to the said or order the said sum of Rupees after the date hereof, together with interest thereon at the rate of per centum per annum payable half-yearly on the day of and the day of ."

MR. PETERSON did not think that there would be any difficulty as regarded the value of the security, and it was of the greatest importance to render these securities negotiable as easily as possible. A Stamp Duty on these securities would certainly detract from their value. These Debentures might be issued in the form proposed, with a proviso that they would not be payable till after six months' notice.

THE ACTING ADVOCATE GENERAL thought that the latter suggestion was a very valuable one. But the clauses were general, and it would be as well to leave the matter to the discretion of the Government in issuing the securites, and not, in the Act, to restrict the form of the Debenture.

MR. MAITLAND believed that Debentures, in the form of a Promissory note, would be acceptable to the public, and would be of great advantage in raising loans. He was in favor of their being made transferable by simple endorsement, inasmuch as, if a transfer stamp was necessary, they would decrease in value.

MR. BROWN supported the proposal of the learned Advocate General.

The Sections and the Schedule were then agreed to.

BABOO RAMGOPAL GHOSE again referred to the provision in Section 170, that 'no doors, trap-doors, or windows of privies should open upon the street. He saw that, since the last Meeting, a communication had been received from the British Indian Association, pointing out the hardship which would be inflicted on many Native families if the Section were passed as it stood. He should make no complaint if the action of the Bill were purely prospective, but it would be very difficult, and in some cases impossible, to alter existing houses in the manner required. On a question of this sort, he thought that some deference ought to be paid to the opinions of the Native community, and he trusted that the Council would consent to modify the Clause. He would therefore propose as an amendment that the words "and it shall not be lawful, after the passing of this Act, for any owner or occupier to erect, build, or make any privy which shall have an opening to or upon any street," be substituted for the words in the Section.

MR. PETERSON thought that the Council was indebted to the Honorable Member for the spirit in which he had addressed them, but, at the same time, he was sorry to see this question reopened. Persons who had their privies in the state contemplated by the Section, were already guilty of a nuisance at common law. Although no man respected the opinions and feelings of the natives more than he had always done, in the present case he felt that no concession ought to be made to their views. If the buildings could not be altered, the arrangements might be, and he could see no necessity whatever for modifying the Clause.

BABOO PROSONNO COOMAR TAGORE supported the amendment.

THE HON'BLE ASHLEY EDEN had prepared an amendment which he believed would meet the views of both speakers, and also the suggestion made by the British Indian Association. The effect of this amendment was that discretion should be left to the Justices to permit the continuance of certain doors and trap-doors already existing, when they created no nuisance. He proposed therefore to add the following words to the Section :—

"Provided that the Justices may, in their discretion, permit the continuance, for such time as they may fix, of any such privy with a door or trap-door opening on to any street, where such privy already exists, and does not create a nuisance."

And he would also move the omission of the word "window" in the 9th line.

THE ACTING ADVOCATE GENERAL said, that he had been rather in favor of the amendment of the Honorable Member who spoke first, but he believed that the amendment just proposed would meet the justice of the case. In his opinion, the Clause, as it stood, might be productive of great hardship.

After some further conversation, the original amendment was withdrawn, and the words proposed by Mr Eden agreed to.

The revised Schedule B having been read—

Class I was agreed to.

BABOO PROSONNO COOMAR TAGORE moved the omission from Class I of the words "Owner of a Haut or Bazar."

After some discussion, the motion was put and negatived.

MR. JENNINGS again moved that the words "Boarding-House-keeper" be removed from Class II to Class III.

After some discussion, they were distributed amongst the several Classes according to the rate at which they were assessed.

After some further conversation, Dentists, Architects, Bannans, and owners of Cotton, Jute, Hide, and other Screws were included in Class II.

Licentiates of Medicine and Veterinary Surgeons were added to Class III.

BABOO PROSONNO COOMAR TAGORE moved the addition of a paragraph, providing that no person who carried on several kinds of business should be taxed under more than one designation, at the discretion of the Justices, and that payment by one member of a firm should be reckoned as payment by the whole firm.

The Motion was agreed to, as were the Preamble and Title of the Bill.

On the Motion of the Acting Advocate General, an amendment was made in Section 218, in order that it might not in any way clash with the provisions of the Penal Code.

For a similar reason, Section was struck out regula-

THE PRESIDENT, ear 1793, the Bill should proposed to con- to press the Motion subject, and should think it ary to give week to consider liers which might not advantage they now He was sure that the provide for wished that they had Criminal passed the Bill before such tleman, who had taken so the with regard to it, left this He also took that opportunity pressing to the learned gentle own thanks, and he thought, h add, the thanks of the Coun the great trouble he had tak the sacrifice which he had m deferring his voyage to E He felt bound also to express the satisfaction which he had felt a assistance which he had derived fr the deliberation of that Council during the progress of the Bill, and more particularly, with reference to the proposals made for an increased taxation of the community of Calcutta. The result of the labors of the Committee upon this Bill was a proof of the usefulness of that Council, and the wisdom of Parliament in establishing such an institution to assist local Government in carrying on the administration of the country.

had carried through such a Bill, not only with no opposition, but with the consent of all the Members of the Council, and, he believed, with that of the community at large, was most satisfactory to all. He begged to return his special thanks to the Members of the Select Committee for the assistance they had rendered the Government.

The Motion was then withdrawn, and the Council adjourned till Saturday, the 16th May.

Saturday, May 16, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

Cou ... for ... Rampgopal ... Section 219 ... Brown, Esq., ... and ... then moved that ... He ... not intend ... Jennings, Esq. ... for order the ... in ... the date ... on ter ... on at the ... table half ...

AND CONSERVANCY ... not ... CALCUTTA ... difficul ...

motion of the Honorable ... Eden, the Council proceeded to ... sect ... import ... table ... Dut ... det ... sent ... pos ... no ... e.

re-consider the Bill to vest the property of the Town of Calcutta, and the management of its Municipal affairs, in a Corporation, and to make better provision for the Conservancy and Improvement of the Town, and for the levying of rates and taxes therein.

THE PRESIDENT said that a considerable number of verbal amendments which seemed to be improvements, had been suggested. He proposed to read through such of the amendments as were of a merely verbal and unimportant character, and that then the Council should vote upon them altogether, unless any Member might wish to raise a discussion on any Clause.

The amendments were then read, and, on the motion of the President, they were agreed to.

Slight alterations were made in Sections CCXVI and CCXXXIII on the motions of the Acting Advocate-General, as also in Section CCXXXVIII.

THE HON'BLE ASHLEY EDEN then moved that the Bill should pass.

The Motion was agreed to, and the Bill was then passed.

THE PRESIDENT then adjourned the Council *sine die*, stating that the hoped no occasion would arise for calling the Members together before the close of the year.

Saturday, November 14, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

W. J. Allen, Esq.,	Baboo Prosonno Coomar Tagore,
C. P. Hobhouse, Esq.,	Baboo Ramgopaul Ghose,
F. B. Cockerell, Esq.,	and
Moulvy Abdool Luteef, Khan Bahadoor,	F. Jennings, Esq.
W. Maitland, Esq.,	

MR. HOBHOUSE and MR. COCKERELL took the usual oaths and their seats in the Council

REGULATION OF JAILS.

MR. HOBHOUSE moved for leave to bring in a Bill for the regulation of Jails and for the better enforcement of discipline therein. He would not trouble the Council with any very detailed statement, but only with a short account of the existing law having reference to Jails and to the discipline maintained in them, and would then state equally briefly what were the chief provisions of the Bill which he proposed to introduce. In almost every District of Bengal, there were at present Civil and Criminal Jails for the reception of persons committed by the Civil and Revenue Courts and the Criminal Courts respectively. There was also at Alipore a Central Jail, for the reception of such prisoners as were sentenced to long terms of imprisonment, and sent there from the District Jails. There was also in Calcutta the Great Jail, one portion of which was termed the House of Correction. By the present system, the control and superintendence over District Jails were vested in the Magistrate, who was empowered to inflict penalties for certain breaches of discipline, that power being subject to such rules as the local Government might pass generally for the regulation of Jails and the discipline therein. Out of the law thus established there had arisen a system under which had been created the Office of Inspector-General of Jails, who had the control and supervision of all the Jails in the Province, subject to the rules laid down by the Government, except the Great Jail. The Jail at Alipore was under the same superintendence, while the Jail in Calcutta, so far as the House of Correction was concerned, was under the control of the Commissioner of Police, the other division being subject to the supervision of the Sheriff; but at the same time the local Government had power to pass such rules as they might think proper for its regulation. He believed that the Imperial Government was about to pass a measure by which the Great Jail would be placed more completely under the control of the local Government. Now, the system which he had attempted to describe had worked well for many years, and it was not proposed to materially alter it. It was found, however, that the laws were scattered through a long series of Regulations extending from the year 1793, and it was therefore proposed to consolidate the law upon the subject, and to amend it in certain particulars. It was also thought necessary to give legal powers to certain officers which it seemed doubtful whether they now possessed. The Bill would provide for the establishment of Civil and Criminal Jails in every district, and in such sub-divisions as might seem to the local Government to require them. It would also confer on the Government the fullest power to enact rules for the management of the Jails and the preservation of discipline. Under the provisions of this Bill an Inspector-General of Jails would be appointed to exercise a general superintendence over Jails, and it was proposed to invest him with the powers of a Magistrate under certain restrictions. The Magistrate would have charge of the District Jail as heretofore, and also the power of inflicting certain penalties for certain specified offences and for breaches of the Rules laid down by Government for the regulation of Jails and the enforcement of discipline. The Jailor also would be invested with the custody of the prisoners. It was not quite determined what distinc-

tion there should be between the power to be exercised by the Jailor and by the Magistrate respectively with regard to the custody of prisoners, but the best plan appeared to be that when persons were once placed in the custody of the Jailor, he should be responsible for that custody. He did not remember any other provision which it would be necessary to mention, but, generally, it was hoped that the Bill would provide a code for the better regulation of Jails.

The Motion was then agreed to, and leave was given to introduce the Bill.

LEASES OF TRIBUTARY ESTATES IN CUTTACK.

MR. ALLEN said, he had a notice on the paper to move for leave to bring in a Bill to empower the proprietors of tributary estates in the District of Cuttack to grant leases extending beyond the period of their own possession. He wished, however, to postpone his Motion till some future meeting of the Council.

The Motion was accordingly postponed.

MUNICIPAL ASSESSMENT AND CONSERVANCY OF TOWNS AND VILLAGES.

MR. COCKERELL moved for leave to bring in a Bill for the Municipal management of Towns and Villages He said, the principle of the Bills was to place the initiative of the Municipal management of Mofussil Towns and Villages in the hands of the Executive Officers of Government. Under the existing law, Act XXVI of 1850, an application from the inhabitants, or at least a considerable portion of the inhabitants of a Town, was required to enable the Government to act. There was, further, no sufficient provision in the Act to enable the Executive Officers of Government to act with vigour and decision under circumstances such as those which unfortunately had recently occurred in the Districts surrounding Calcutta. For want of proper sanitary regulations an epidemic had spread from village to village, and although large sums of money had been expended, the Officers of Government had reported that, in the existing state of the law, measures necessary for checking the advance of disease could not be taken. The Bill now proposed regulated the form of taxation, and fixed the maximum amount to be levied on property-holders. Act XXVI of 1850 empowered the local Government to authorize the Commissioners appointed under that Act in any Town or place to draw up Rules for defining the persons or property to be taxed, and the mode and amount of taxation, as well as Rules for regulating matters of conservancy. The consequence had been that the subjects of taxation had varied in different places, and that the Act had worked with a greater or less amount of success, according to the peculiar circumstances of each place. It was proposed in this Bill that the tax should fall on house and landed property, and that it should not exceed ten per cent. of the annual value of the house or property taxed. The powers in regard to conservancy would be very much in the form of those conferred by Act XXI of 1857 in force in Howrah and the Suburbs of Calcutta. The principal Clauses in regard to conservancy arrangements would be incorporated from that Act The funds derived from the tax he had referred to would be applied partly for the maintenance of the Town Police, provided for in Act XX of 1856, commonly called the Chowkeedary Act, and the residue to purposes of conservancy and improvement. It was also proposed to give the Lieutenant-Governor power to extend the provisions of the Act to unions of Villages and tracts of country united, as in the Chowkeedary Act. The Municipal Commissioners would be appointed by Government, and the Executive Officers of the Station would be members of the body. He had now described the principle on which the Bill had been framed, and pointed out the different points in which it differed from the Acts which it intended to replace. With these

observations he would move for leave to bring in the Bill.

The Motion was agreed to.

The Council was adjourned to Saturday, the 21st instant.

Saturday, November 21, 1863.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

J. Graham Esq., *Acting Advocate-General,*
W. J. Allen, Esq.,
C. P. Hobhouse, Esq.,
Moulvy Abdool Luteef,
Khan Bahadoor,
Baboo Prosonno Coomar Tagore,
Baboo Ramgopaul Ghose,
and
F. Jennings, Esq.

REGULATION OF JAILS.

MR. HOBHOUSE moved that the Bill for the regulation of Jails and the enforcement of discipline therein, be read in Council. Since he had last addressed the Council, the Bill had been placed in the hands of Honorable Members, who, therefore, had had an opportunity of examining it. He had, on the previous occasion, explained the principle of the Bill, and also its main provisions, and it would only therefore be necessary for him to refer to some provisions on which he had not then touched. Section 5 provided that—

"It shall not be lawful, without the authority of the Government, to confine persons committed by a Civil or Revenue Court in the Criminal Jail or in the Central Jail, nor shall persons under the sentence of a Criminal Court be confined in the Civil Jail. Provided always that any Civil and Criminal Jails may be comprised within the limits of the same building."

Now he presumed that everyone would admit that it was a sound principle that Civil prisoners should be kept apart from Criminal offenders, and to place such persons in the same Jails as Criminals, was a punishment which the law never contemplated. To do so would also be an injury to society, as well an additional punishment to the prisoners themselves. It was, however, absolutely necessary, in this country, that Government should be entrusted with the power given by this Section, namely, at times to confine both classes of prisoners in the same Jail, as, for instance, in cases of overcrowding, or in the event of an epidemic breaking out. There was also a special provision in this Section that any Civil and Criminal Jail might be under the same roof. This was to meet the very numerous cases in which Civil and Criminal Jails were comprised in one building; but the Civil and Criminal prisoners would be kept apart from each other. Section 11 provided that—

"The Inspector General of Jails, with the sanction of Government, may authorize the release of persons from the Civil Jail on the ground of bodily infirmity, and an order of release signed by a Secretary to the Government of Bengal shall be sufficient warrant to the Jailor."

It was, he thought, a sound principle that there should be a power of releasing all classes of prisoners in cases of severe bodily illness likely to terminate in death. When persons were sentenced to confinement, either in a Civil or Criminal Jail for a short period, and sickness should ensue, likely to cause death, it must be right that some person should have power to release them, conditionally or otherwise. Such a power had always been exercised in this country, and he believed at home under the authority of the Secretary of State. Under the Code of Criminal Procedure the local Government had full authority to remit the punishment of Criminal offenders without any restriction, and surely if it possessed such a power with regard to Criminals it ought to have the same power with regard to Civil prisoners. As the Clause at present stood, however, he did not think that it would be of any great practical use. If it were wished to release any prisoner, application would have to be made to the Inspector of Jails, who, in his turn, would have to go to the local Government to get a warrant upon which the Jailor could act. Now, the Inspector would

probably be in one place, the Magistrate in another, and the Government in a third, and a person might be dead before the provisions of the Clause could be complied with, or, if not dead, so sick that his removal might be impossible. He, therefore, when the Bill went into Committee, should propose to substitute a Clause, giving the Officer in charge of the Jail power of granting a release. But this power should only be exercised first on the certificate of the Civil Surgeon that the prisoner was so ill as to be likely to die if detained longer, and not even then without the sanction of a Visitor of the Jail. Section 13 provided that—

"The Magistrate or other person in charge of a Civil or Criminal Jail shall, subject to the sanction of the Inspector-General of Jails, appoint a Jailor, who shall be the Officer having authority to receive and keep persons committed to prison, and he shall be responsible for the safe custody of all prisoners from the time when they shall be received into the Jail until the time of their discharge by lawful authority."

In this country Jailors were required to be always present in the Jail, and it was therefore impossible that they could have more than a nominal charge of prisoners while they were being taken before the Court. It appeared therefore best to lay down that persons should only be considered to be in the legal custody of a Jailor when they were placed in his charge in the Jail itself. In the Penal Code and in a later Section of his Bill provision was made for the intermediate custody of prisoners, so that any person employed in any Jail, or in the custody of prisoners, was liable to punishment under Section 221 of the Penal Code if he should aid or abet any prisoner in making his escape.

Section 15 provided that—

"The Jailor shall discharge all prisoners in presence of the Magistrate or other Officer in charge of the Jail, unless the Government shall otherwise direct."

Ordinarily speaking, when a Jailor received a warrant for the discharge of any person from his lawful custody, it would seem at first sight that he ought to be allowed at once to discharge such person, but generally in this country Jailors were persons of such a class that they could not be allowed to exercise such a power without supervision, and practically, the Clause provided for the immediate discharge of a prisoner, because the person in charge of the Jail would, in all cases, be at hand; or if he was not at hand, the Government had power in the Section to direct a prisoner's release in his absence. Section 16 provided for the temporary shelter and legal custody of prisoners in the case of Jails being overcrowded, or in case of disease. Section 17 provided for the reception of prisoners sentenced by Court Martial, and Section 18 for the custody of the property found upon a prisoner. As these Sections appeared to speak for themselves, he did not think that it would be necessary to dwell on them. Section 19 provided for the classification of prisoners. There were naturally two classes, and perhaps it would be as well to add a third It was necessary that persons committed for trial should be kept apart from those convicted, and that males should be separated from females, and it would perhaps be advisable to add a third classification, viz., that Civil prisoners should be kept apart from Criminal offenders By Section 20 the Government would have power to pass rules for the preservation of prison discipline, and it was intended by this Section to give the Government the power to enact rules on all subjects connected with Jail discipline and management not otherwise provided for by law, and if in Committee the power given in this Section was not sufficient for this purpose, the Section could be amended. Section 21 provided that—

"It shall be lawful for the Magistrate, or other person in charge of a Jail, to place fetters at any time on all prisoners sentenced to any of the following punishments; that is to say, Death, Transportation, Penal Servitude, Rigorous Imprisonment and also to place

fetters on all prisoners of any class for purposes of safe custody."

Now Jail buildings in this country might be sufficiently secure, or it might be necessary to make them so, but neither the guards in Jails nor the Jailor could be wholly trusted, and therefore it had always been found necessary to place fetters upon that class of persons who were likely to endeavour to break Jail. This was not intended as an additional punishment, but simply as a provision for safe custody, and the concluding words of the Section were intended to apply to cases of outbreaks. Sections 22, 23, and 24 provided for the punishment of breaches of any of the rules laid down for the preservation of discipline, and Sections 25 and 26 provided for certain cases which did not, he believed, come under the Penal Code, but that was a subject which could be better discussed in Committee Section 27 was taken almost verbatim from an Act passed by that Council in 1862 for the regulation of the great Jail of Calcutta, and Section 28 gave power to the Lieutenant-Governor to extend the operation of the Act to any Jail which might hereafter be placed under the control of the Government of Bengal. There was one other point to which he thought it desirable that the attention of the Council should be directed, and that was the expediency of allowing persons, not under sentence of labor, to work, if they should be so inclined. He had no doubt that many persons would be willing to labor, if the proceeds of their labor, after paying for the cost of materials, &c., were secured to them, and if at a future period he proposed any provision on that subject, it would be that labor in the cases of persons not sentenced to it should be perfectly voluntary, and that the proceeds, after deducting expenses, should be made over to the prisoners on their being discharged from prison. With these remarks, he begged to move that the Bill be read in Council.

MULVY ABDOOL LUTEEF gave his full support to the principle of the Bill proposed, but there was a Clause at the end of Section 21 to which he begged leave to direct the special attention of the Hon'ble Members. The objectionable Clause was "and also to place fetters on all prisoners of any class for purposes of safe custody." The whole Section stood thus:—

"It shall be lawful for the Magistrate or other person in charge of a Jail to place fetters at any time on all prisoners sentenced to any of the following punishments; that is to say, Death, Transportation, Penal Servitude, Rigorous Imprisonment; and also to place fetters on all prisoners of any class for purposes of safe custody."

And the last Clause, he believed, meant that prisoners committed to Jail by Civil and Revenue authorities might also have fetters placed on their legs "for purposes of safe custody," merely at the discretion of the Magistrate or other person in charge of a Jail. It might be that persons of respectability and position were occasionally committed to prison for debt, and it would be indeed very hard for such to have fetters placed on them and thereby to be put on the same footing as felons, merely at the discretion (it might be) of an inexperienced Magistrate or other person in charge of a Jail,—probably on the simple report of a Jailor of the old Omlah class. He ventured to think that such an unnecessary provision should at once be struck out of the Bill, and in support of his argument, he begged to quote an old Construction of the late Sudder Court, No. 62 ½, which was—

"A Civil prisoner cannot be confined in fetters, unless he is suffering under a Criminal sentence for having broken Jail: in other words, fetters cannot be imposed on a Civil prisoner merely to ensure his safe detention in Jail."

But should Hon'ble Members be of opinion that some ordinance of this nature was essential for the sake of Jail discipline, he would, in that case,

consider it necessary to make a special provision to the effect that the Civil or Revenue authority, who had committed the prisoner to Jail, should be consulted by the Magistrate or other Officer in charge of the Jail before the fettering process should be carried out; and should both agree in the matter, then the chains might be put on, always providing that a full report should be immediately forwarded to the Inspector-General of Jails, who could reverse that order or confirm it, just as he thought proper in consideration of the merits of the case.

He begged to move as an amendment, that the words, "and also to place fetters on all prisoners of any class for purposes of safe custody," be omitted from Section 21 of this Bill.

BABOO PROSONNO COOMAR TAGORE highly approved of this attempt to consolidate, and, at the same time, improve the rules regarding the custody of prisoners and Jail discipline It was extremely proper that the past should afford a lesson for the future There was however one omission in the proposed Bill. There was no rule to prohibit prisoners not sentenced to labor, Civil prisoners, and prisoners under trial, from being employed to labor by Magistrates, and cases where such persons had been made to labor had actually occurred. It would be proper therefore to provide against such things being done from inexperience, and escaping the notice of the Superintending Officers. Of course, the necessary modification could be made in Committee. Section 20 of the Bill provided that Government might make the necessary rules for the supervision, employment, and treatment of prisoners, &c., and under that provision a rule might be made for the employment of prisoners not sentenced to labor, Civil prisoners, and prisoners before trial, though such was not the intention. Employment of prisoners was a substantive law, and whether such power could legally be transferred by that Council to the executive was a question for the consideration of the Honorable President. If the power were given to the executive, all he would suggest was that it might be in explicit terms with proper restrictions.

MR. HOBHOUSE, in reply, explained that the concluding words of Section 21 were intended to apply to cases of outbreak, and the restriction suggested by the Honorable Member would, if adopted, render the Clause nugatory. It would take considerable time to consult the Civil or Revenue Court before putting on fetters, and outbreaks generally occurred without half-an-hour's notice. Perhaps the words of the Clause might be a little too general, but they could easily be altered so as to carry out what he believed the Honorable Gentleman had in view. With regard to the other objection, namely, that under Section 20, the Government would have the power of compelling persons to labor who were not sentenced to labor, he could only say that he could not see that any such authority was given, nor was there any intention of creating any such power.

THE PRESIDENT said that no doubt the observations which had fallen from the Honorable Member would be borne in mind by the Select Committee when they came to consider the Bill in detail, but the amendment of the Honorable Member could not be put at the present stage consistently with order The time for proposing any such amendment was when they went into Committee.

The Bill was then read in Council, and referred to a Select Committee, consisting of the Advocate-General, Baboo Prosonno Coomar Tagore, Moulvy Abdool Luteef, and the Mover

The Council was adjourned to Saturday, the 28th instant.

Saturday, November 28, 1863.

PRESENT:

J. Graham, Esq., *Acting Advocate-General,*
and
F. R. Cockerell, Esq.

The Members assembled at the meeting did not form the quorum

Moulvy Abdool Luteef.

required by law for a Meeting of the Council.

The Council was adjourned by the Advocate-General to Saturday, the 5th December.

Saturday, December 5, 1863.

PRESENT.

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

J Graham, Esq., *Acting Advocate-Genl.*,	Baboo Prosono Coomar Tagore, and
W. J. Allen, Esq.,	F. Jennings, Esq.
C. P. Hobhouse, Esq.,	
W Maitland, Esq.,	

THE ADVOCATE-GENERAL moved that the Select Committee on the Bill to extend the jurisdiction of the Calcutta Court of Small Causes, and to provide for the appointment of Assistant Judges of that Court, be discharged, and the Bill withdrawn

The Motion was agreed to.

THE PRESIDENT said that, as the Honorable Member the Secretary to the Government of Bengal, who was to move that the Bill to provide for the appointment of Municipal Commissioners in Towns and other places in Bengal, and to make better provision for the Conservancy, Improvement, and Watching thereof, and for the levying of Rates and Taxes therein, be read in Council, was not in his place, it would perhaps, be most convenient that the Council should be adjourned to Saturday next.

The Council was accordingly adjourned to Saturday, the 12th instant

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Saturday, December 12, 1863.

PRESENT.

His Honor the Lieutenant Governor of Bengal, *Presiding.*

J. Graham, Esq., *Acting Advocate-Genl.*,	W. Maitland, Esq.,
W. J. Allen, Esq.,	Baboo Prosono Coomar Tagore,
C. P. Hobhouse, Esq.,	Baboo Ramgopaul Ghose,
F. R. Cockerell, Esq.,	and
Moulvy Abdool Luteef, Khan Bahadoor,	F. Jennings, Esq

MUNICIPAL ASSESSMENT & CONSERVANCY OF TOWNS AND VILLAGES.

MR. COCKERELL moved that the Bill to provide for the appointment of Municipal Commissioners in Towns and other places in Bengal, and to make better provision for the conservancy, improvement, and watching thereof, and for the levying of rates and taxes therein, be read in Council. He said that, on the occasion of the introduction of the Bill, the principle on which it was framed had been fully explained, and he had also showed in what points that principle differed from the existing law. It now only remained for him to make a very few remarks explanatory of the principal provisions of the Bill, which he thought might be conveniently considered in three divisions. The first portion of the Bill gave power to the Lieutenant-Governor to introduce the Act into such places as to him might seem fit Section 2 prescribed that, for the purposes of the Act, the Lieutenant-Governor might define the limits of any town, suburb, station, bazar, village, or tract of country. This was an extension upon the application of Act XX of 1856 (commonly called the Chowkeedary Act) only in the addition of the term "tract of country." That term had been introduced because it might be found necessary to ensure the health of towns and villages, that off-shoots from them, separated by portions of intervening land, should be brought under proper conservancy regulations. Officers of Government would thus be able to deal with causes of malaria lying beyond the actual abodes of individuals, from which they nevertheless suffered. The 4th Section of the Bill repealed the existing Municipal Law, Act XXVI of 1850, and also those Sections of the Chowkeedary Act which prescribed the form of taxation, the mode of collecting taxes, and other incidents of such taxation. The Sections of the Chowkeedary Act that were thus repealed were Sections 9 to 13 Sections 9 and 10 of that Act prescribed that the taxation should take the form

of an assessment on the property of the occupiers of houses, or a rate on the annual value of the houses occupied. In practice, however, the taxation had always taken the form of an assessment in reference to the circumstances of the inhabitants, as well as in regard to the property to be protected. In this therefore the new law would mainly differ from the old—that the burden would now fall on the property which was the subject of local taxation. The new law would have more the effect of a property tax than an income tax, which in reality the old law was. Section 5 of the Bill provided for the appointment of Commissioners, who might also be invested with the powers of Magistrates under Section 23 of the Code of Criminal Procedure, but they would only exercise those powers for the purposes of this enactment. There were many cases which would arise under the provisions of the Bill, such as the hearing of appeals, and the determination of damages and expenses. The vesting the Commissioners with the powers of Magistrates would be found useful for carrying out the purposes of the Act, and as the Commissioners would be selected and appointed by the Executive Government, only such persons would be appointed as might be competent to exercise those powers. Section 7 provided for the appointment of a Chairman and Vice-Chairman; the Chairman would be the Magistrate of the District, and the Vice-Chairman, who would be appointed by Government, would, in the absence of the Chairman, preside at Meetings of the Commissioners. By Section 13, the Chairman and Vice-Chairman were empowered to exercise, with certain exceptions, the powers of the Commissioners. Sections 18 and 19 vested a control in the Government over the expenditure and estimates. Section 20 described the mode of taxation, and fixed the limit thereof. It was declared that there should be a rate on the rent of houses, buildings, and lands. This expression differed from the wording of Act XX of 1856 in the substitution of the word "lands" for the word "grounds." There was, however, a provision in the Bill to protect all lands devoted to cultivation or used for the purpose of depasturing cattle; land, therefore, which was enclosed with a house and used as a garden or pleasure ground, or which was converted into a plantation or orchard, would be subject to taxation. The profits from such lands had of late years very much increased, and under the present system what they contributed was out of all proportion to their value. The additional profit derived from them was mainly owing to that very increase of population which rendered a system of sanitary reform and the means of raising local funds to carry it out, necessary for the preservation of the health of the communities whom the Bill would affect. The proprietors of such lands might therefore, justly be made to take a fair share of the responsibilities which the owners of property ought to bear. Section 20 contained a provision for the payment of the Police, in which it was expressly stipulated that no greater sum should be set aside for that purpose than had been hitherto paid. The reason of this was that the object of the Bill was to provide for the general conservancy and improvement of towns and villages and to introduce a system of general sanitary reform. It was not intended that there should be in any place extra taxation for the local Police, and this provision, intelligible, though not very definite in its terms, was inserted in order that the population might not be required, under the new law, to bear a greater burden for Police purposes than they had hitherto borne.

With regard to the limit of taxation, 10 per cent. had been fixed as the maximum, but it did not follow that that amount would always be raised. Act XX of 1856 authorised an assessment on the property to be protected, or a rate on the houses and grounds occupied, and in the latter case it was limited to 5 per cent. of the annual value of such

houses and grounds. The taxation under that Act had been found very inadequate; recourse had always, therefore, been had to an assessment on income. The rate on property proposed was, he thought, not heavier than was fairly required for the purposes of the proposed Act.

The second division of the Bill related to the raising of funds by means of a carriage and horse tax, and was an extension of the provisions of Act XII of 1858, which was in force in Howrah and the Suburbs of Calcutta. It did not follow that wherever the Bill was introduced, this tax would also be enforced; it was only intended to apply to large Towns and Stations where the Commissioners would have to provide and maintain roads and communications carrying to such Towns a considerable traffic and adding to the wealth of those whom this tax would affect, and who might therefore be fairly expected to contribute. This part of the Bill also provided for the taxation of carts, hackeries, and wheeled vehicles generally.

The next division of the Bill applied to measures of conservancy and for removing and preventing the assumed causes of epidemic-breading malaria now unfortunately prevalent. They were taken, with very slight alterations, from Act XXI of 1857, also in force in Howrah and the Suburbs of Calcutta. The epidemic might have been far better met and resisted by the efforts of the local officers if the law had given them larger powers. The provisions of Sections 50 to 55 principally dealt with the state of things supposed to be the main cause of malaria in the affected Districts. The Sections referred to provided that tanks used for drinking purposes should be kept apart, and not contammated, and gave power to the Commissioners to fill up stagnant pools and ditches, and to cut down jungle, which too often spread disease. He had endeavoured to state the general provisions of the Bill, and had now only to move that the Bill be read in Council.

MOULVY ABDOOL LUTEEF said that, while accepting the principle of the Bill that Government might introduce Municipal regulation into townships in the Mofussil, without regard to the expressed wishes of the inhabitants, he must say that the proposed power of taxation at a rate not exceeding ten per cent. on the annual value of property seemed too great. He was quite sure that it would cause considerable alarm and dissatisfaction, and he therefore thought that the rate should be reduced. That, however, was a point which, with one or two others of a similar objectionable nature, could be considered in the Select Committee.

The Bill was then read in Council, and referred to a Select Committee, consisting of the Advocate-General, Mr. Hobhouse, Moulvy Abdool Luteef, Baboo Prosonno Coomar Tagore, and the Mover.

The Council was adjourned to Saturday, the 19th instant.

By subsequent order of the Lieutenant-Governor, the Council was further adjourned to Saturday, the 2nd January 1864.

Saturday January 2, 1864.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

J. Graham, Esq., *Acting Advocate-Genl.*,
W. J. Allen, Esq.,
C. P. Hobhouse, Esq.,
F. R. Cockerell, Esq.,
Moulvy Abdool Luteef, Khan Bahadoor,
Baboo Prosonno Coomar Tagore,
Baboo Ramgopaul Ghose,
F. Jennings, Esq., and
J. B. Barry, Esq.

MR BARRY took the usual Oaths and his seat as a member of the Council.

HACKNEY CARRIAGES AND PALANQUINS.

MOULVY ABDOOL LUTEEF, in moving that the Bill for regulating Hackney Carriages and Palanquins in the Town and Suburbs of Calcutta be re-

considered in order to the settlement of the Clauses of the Bill, said, that, although it had been his part to move for the passing of this Bill into Law, he hoped that he might be excused for offering material objections to the Bill in its present shape. He did so because, since the Bill had been settled by the Council, he had had his attention drawn to certain changes introduced into it during that stage, which now appeared highly objectionable. Section XXVII, as it now stood, made it compulsory for a carriage driver to let his conveyance, if required to do so, for any time not exceeding an hour. Any one could see that such a provision would hardly be received as a boon by the public at large. If a man went from Chowringhee to Cossipore, and had to give up the carriage there, how was he to get another conveyance to bring him back? According to the Bill as it stood, a driver might be compelled to go as far as Cossipore, but he was not compelled to stay a minute after he had dropped his passenger there. Even if stands were generally established, there would not be many in thinly populated but extensive localities? In London carriages could be found at every point and turning at all hours, and even if none were found, it was not inconvenient nor contrary to custom for anybody to walk in the streets of London, nor was exposure to the sun or rain so injurious there as here. The English Act furnished no analogy on this point, it would be quite impossible here for persons of the class who would hire conveyances, especially Europeans, to walk even a short distance in the sun or rain without great inconvenience. If a carriage were required for a whole day, there was nothing to compel the owner to give it up, even if a full and sufficient fare were offered. So far as his experience went, carriages were as often let for a whole day as for short trips and periods, and the proposed law would touch only the latter description of transactions, allowing any amount of extortion or irregularity to reign unchecked in the other. The same unnecessary limitation of time was introduced into Section XLIII regarding the hiring of Palanquins, and the same arguments applied to that case also.

He also objected to the changes made in Schedule A. It was therein provided that the hire for a second-class carriage should be one rupee for any time not exceeding one hour, which was too favorable to the carriage owners, as according to that rate, they might require eight rupees a day for a Carriage which at present was let for two or three rupees per day. Even twelve annas per hour throughout would be too much, as was shown by the fact that two Carriage Companies recently started in Calcutta seemed to consider eight annas per hour a remunerative charge. The rate for third-class carriages would seem almost prohibitive. It would enable a driver to demand eight annas for a trip, which ordinarily should cost half as much. He would revert, however, to the old Fare Table by time, proposed by the Select Committee after great consideration, and would go further and provide that a whole day should consist of nine hours instead of eight, and in case of disagreement time and not distance should regulate the fare.

If Schedule A was too favorable to Carriage Owners, Schedule B regarding Palanquins was too unfavorable to the Palanquin bearers. In his opinion the fare of two annas per mile was an oppressive one as regarded them. He felt sure that there would be a strike among Palanquin bearers, as other occupations would bring them more remuneration than carrying Palanquins according to these rates. And if for that reason there should be a scarcity of Palanquins, a very large portion of the community would suffer, and it would prove exceedingly injurious to the whole of the native females of the Purdah-nishin class. It was therefore necessary that the rates should be so fixed, that without being oppressive to the hirers, they should not be hard upon the bearers also. He would in this case also go back to the Table originally proposed.

There was another circumstance which had not been brought to the

Moulvy Abdool Luteef.

notice of the Council in regard to this Bill. Hon'ble Members would be aware of the fact that, according to the customs of this country, native females of respectability could not go on the shortest trips, even if it were but from one door to the next, save in Palanquins, and the charge of two annas for any distance not exceeding a mile would be too high as regarded them. Short strips in Palanquins at present cost only four or six pice, but under the rates as proposed they would cost two annas, and this would be a great hardship to those Purdah-nashen women who were poor. He would therefore make a special rate of one anna for all short trips within quarter of a mile, and he was convinced that it would be a great advantage gained.

MR. HOBHOUSE thought that the Hon'ble Member had made out something like a case for the reconsideration of the Bill, but he must confess that he had not had time to look carefully through the Bill or to come to any deliberate conclusion with regard to it. He believed that such was the case with most Members present, and he therefore thought it advisable that time for consideration should be given. He begged leave therefore to move that the reconsideration of the Clauses of the Bill be postponed till that day week.

MR. JENNINGS seconded the amendment, which was put and carried.

The Council was adjourned to Saturday, the 9th instant.

Saturday, January 9, 1864.

PRESENT.

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

J. Graham, Esq., *Acting Advocate-General,*
W. J. Allen, Esq.,
C. P. Hobhouse, Esq.,
F. R. Cockerell, Esq.,
Moulvy Abdool Luteef, Khan Bahadoor,
Rajah Pertaub Chand Singh,
Baboo Prosonno Coomar Tagore,
F. Jennings, Esq., and
J. B. Barry, Esq.

MANUFACTURE AND TRANSPORT OF SALT.

MR. ALLEN moved for leave to bring in a Bill to amend and consolidate the laws relating to the manufacture, possession, transport, and sale of Salt in the Provinces under the control of the Lieutenant-Governor of Bengal. The Council were perhaps aware that, from about the middle of last year, the manufacture of Salt by Government Servants had entirely ceased. It was not intended to continue that manufacture, but to trust in future for a supply of Salt for these Provinces to the importation of Salt by Sea, and to the manufacture of it in this country by private persons under a system of Excise. In consequence, therefore, of the change in the system of manufacture, it had become necessary to amend the present laws on the subject. All the laws, having reference to the manufacture of Salt by the direct agency of Government, to the appointment of Officers in the Salt Department, their powers, and duties, and to the sale of Salt by Government Servants, had become obsolete and inoperative, and accordingly it was proposed to repeal them. The opportunity had now been taken to amend and consolidate the whole law, which was now contained in several Regulations and Acts passed during a period extending from the year 1819 to the present time. There was in fact very little new in the Bill which he proposed to introduce. The main alteration was that cases of the illicit manufacture, possession, or transportation of Salt, which under the present law would be heard and determined by the Civil Courts, would, by the proposed Bill, be transferred to the Criminal Courts. This, he thought, was no great alteration, because, by the present practice in these cases, the Magistrate held the first investigation, and the Judge of the District passed the final order. Such cases, and the adjudication of all fines penalties, and confiscations would in future be dealt with in the Criminal Courts in the same manner as cases under the Abkarry Laws, and those Courts

would be guided in their proceedings by the provisions of the Code of Criminal Procedure. Certain powers had been given to the Board of Revenue to remit penalties, either in whole or in part, to reward informers, and to order the discharge of persons convicted of offences against the Salt Law. The retention of Salt Chowkey Officers had been considered no longer necessary; the Salt executive had lately been abolished, and their duties had been transferred to the Police, who had been invested by the Bill with the necessary powers for the protection of the Salt Revenue. The Law for the prevention of Smuggling Salt in Calcutta (Act XIII of 1849) had been almost wholly incorporated into the Bill. The manufacture of Salt under Excise Regulations had been carried on for some years by the permission of Government, and now it was proposed to give legal sanction to that system. The Bill which he asked leave to bring in would in no way affect the Revenue. The duty on Salt manufactured under license by private persons would be the same as that now paid, and would be equal to the Customs Duty on Salt imported by Sea. It had not been considered necessary to re-enact the Clauses of Regulation X of 1819 and Regulation X of 1826 regarding the adulteration of Salt, as the Penal Code provided sufficiently for such cases. He had now explained the principle of the Bill; the details he would enter into at the next stage after the Bill had been placed in the hands of the Members.

The motion was agreed to.

HACKNEY CARRIAGES AND PALANQUINS.

MR. HOBHOUSE, in the absence of Moulvy Abdool Luteef, moved that the Bill for regulating Hackney Carriages and Palanquins in the Town and Suburbs of Calcutta be reconsidered in order to the settlement of the Clauses of the Bill.

The Motion was agreed to.

Section VII provided that a fee of three Rupees should be paid for each registration under the Act.

MR. JENNINGS said that in his opinion there ought to be a difference in the fee paid by owners of Carriages of different classes. He would suggest that a fee of three Rupees should be required from owners of first-class Carriages, and two Rupees from owners of second and third class Carriages, and he begged to move accordingly.

MR BARRY thought that, as the fee was an annual one, and the amount a small one, the owners of second and third class Carriages could well afford to pay it.

MR ALLEN considered it fair that some difference should be made, and he would therefore support the amendment.

MR. JENNINGS' motion was then agreed to, and the Section as amended was passed.

MR JENNINGS moved an amendment in Section IX, to the effect that an unregistered Carriage should not be seized by a Police Officer, "if the Carriage were employed at the time of seizure in the conveyance of passengers." He thought it would be excessively inconvenient if the Police were allowed to take up a Carriage for non-registration, when that Carriage had passengers in it at the time.

MOULVY ABDOOL LUTEEF (who had entered the Council Chamber after the motion that the Bill should be reconsidered had been carried) thought that the amendment, if made, would make the Section inoperative. The Carriage ought at once to be taken to a Police Station.

MR. ALLEN thought the amendment necessary. If not inserted, passengers would often be subjected to great inconvenience. The Policeman could always jump up at the back of the Carriage.

MR HOBHOUSE opposed the amendment. The Section would be quite inoperative if it were carried. The owner could always put up a person to represent a passenger. He thought the inconvenience would be very little. In process of time people would not take unregistered Carriages, and in that way the mere effect

of non-registration would act as a means of making owners register their Carriages.

The amendment was then negatived.

MR. JENNINGS moved that the fee for a driver's license should be one Rupee, instead of two, as provided in Section XV. He observed that the Select Committee had proposed eight annas. One Rupee, he thought, was as much as such people could reasonably be expected to pay.

MR HOBHOUSE did not concur in the amendment. The licenses were to be taken out annually, and the matter had been already considered and decided by the Council He observed from the printed proceedings that Mr Peterson had moved for the raising of the fee, and his reasons for so doing appeared good, viz., that by demanding a larger fee you were likely to get a better class of drivers. That decision was come to unanimously, and they ought not to upset it unless sufficient grounds were shown.

The amendment was negatived.

MR. HOBHOUSE thought the proviso at the end of Section XXI unnecessary. It enacted that contracts for the payment of rates of fare lower than those fixed by the Act, might be entered into He believed that, although the Act fixed the maximum rates of fare, there was nothing to prevent a person from charging less If, therefore, there was a special contract between hirer and hired, it believed it would stand good, without such a provision in the Act. He found that when the proviso was discussed, the Advocate-General (Mr Cowie) was opposed to it. It was true the Advocate-General did not object to the proviso as unnecessary, but because he thought it would lead to constant disputes and difficulties That opinion, he observed, was endorsed by a petition of some 450 inhabitants of Calcutta Besides, if a proviso like this were necessery as to fares, a similar Clause would apply to permit a driver going more than six miles if he agreed to do so. Such provisions, he thought, were unnecessary, as there could be no question of contracts of that nature standing good, though not contained in the Act. Thinking the proviso, therefore, unnecessary, and likely to give rise to disputes, he would move to omit it.

MOULVY ABDOOL LUTEEF explained that the proviso had been introduced with a view to remove any misunderstanding into which the lower classes of the inhabitants and the owners and drivers of Carriages might fall, that they would not be at liberty to enter into such contracts. He did not see that there was any great harm in leaving the proviso as it was

MR BARRY said that there had been some difficulty found at home on this point the Clause stood in the old Hackney Carriage Act, but had been omitted in the later Statutes. In this country, however, he thought the proviso more necessary than in England The lower classes were more ignorant of their rights If some such Clause were not in the Act, they would not know that they could enter into contracts for the payment of lower fares, and the driver would invariably claim the rates according to the Schedule.

MR. ALLEN thought the proviso absolutely necessary, and that the decision of the Council which had been arrived at before ought to be upheld.

THE ADVOCATE-GENERAL agreed in considering the proviso unnecessary. What was the object of the Act in limiting and fixing the rates of fare, but to protect people from the extortionate demands of the owners of conveyances? The Act was for the benefit of the public, and not of the driver or owner. If the latter wished to make some contract of the nature referred to in that proviso, he was at liberty to do so. But the law ought to leave it unexpressed. The law should be left in general terms it was not necessary to encourage anything of this sort. If a *bonâ fide* contract were to be made, there was nothing in the principle or policy of the law to prevent its taking effect, provided it was proved in the regular way, but he would not throw out

temptations to raise this question continually.

THE PRESIDENT thought it made no difference in point of law whether the proviso were retained or not. In either case the party hiring had the option of making a contract: the only question was, whether some special proviso for the purpose should be introduced to let those classes, who were comparatively ignorant, know that they were entitled to make one.

MR. HOBHOUSE'S motion to omit the proviso was then negatived.

MR. HOBHOUSE proposed to add another proviso to the section, viz., "that every such owner or driver shall, if required, be bound at the time of hiring to furnish the hirer with a ticket bearing the number of his Carriage and the words 'hired by time' or 'hired by distance,' as the case may be." That was to meet a suggestion in the petition of the 450 inhabitants he had spoken of. He thought the ticket would be a good proof as to whether a hire had been made by time or distance. He believed the ticket system was practised in England.

BABOO PROSONNO COOMAR TAGORE would add to the motion that the ticket should be returned to the driver at the completion of the hiring. If that were not done, the same ticket might be used again, and thus cause confusion.

MOULVY ABDOOL LUTEEF observed that the point had been discussed by the Select Committee, who came to the conclusion that, as the greater number of hirers, as well as of owners and drivers, were unable to read or write, if such a Clause were introduced, it would lead to an amount of confusion exceedingly troublesome to the authorities. It was therefore considered not advisable to provide for these tickets, although the provision was contained in the English Act.

MR. JENNINGS supported the amendment. He thought it would tend to the benefit of the public. The confusion that was expected to arise from the ignorance of the population might be obviated by the introduction of tickets of various colors.

MR. ALLEN thought they had better leave the Act as it was. The tickets would have to be printed in three languages—English, Bengalee, and Oordoo, which would entail considerable expense to the owners of conveyances. If, however, the system were introduced, he thought the tickets should be retained by the hirer as in London and Paris. It was the only means of recovering property left in a hired conveyance. On the other hand, confusion was likely to arise; when a man hired a Carriage by the hour, he would get the distance ticket, and *vice versâ*.

MOULVY ABDOOL LUTEEF thought that, if the ticket was retained by the hirer, it might be made use of on a subsequent occasion. A man very often hired the same Carriage, which happened to be near at hand. Were it to be said that the remedy lay in dating these tickets, he would reply that it would be matter of great expense to the owner to have the tickets printed and written out for each day. On the whole, he thought the ticket system would create great confusion, and would not be beneficial to the public.

THE ADVOCATE-GENERAL thought the whole discussion of this question had tended to the conclusion that the Act should be left as it stood.

MR. HOBHOUSE said that, as the matter had been referred to in one of the petitions, he had merely wished to point out what the opinion of the public was on the question.

THE PRESIDENT said, the Bill having been deliberately considered by the Select Committee, and afterwards by the whole Council, he did not think any addition of the kind should now be made, unless there was a sufficient necessity for it. He had not been aware that it had been alluded to by anybody out of doors.

[MR. HOBHOUSE here read from the petition to which he had referred.]

THE PRESIDENT still thought that the change proposed was not of such importance as to be made at this stage of the Bill.

The Council then divided on the amendment:

Ayes 5.	*Noes* 6
Mr. Jennings.	Moulvy Abdool Luteef.
Baboo Prosonno Coomar Tagore.	Mr. Cockerell.
Rajah Pertab Chand Singh.	Mr. Allen
Mr. Barry	The Advocate-General.
Mr. Hobhouse.	The President.

The numbers being equal, the President gave his casting vote with the Noes

So the Motion was negatived

MR. BARRY referred to that portion of the Section which enacted that no back fare should be demanded for the return of the Carriage from the place at which it was discharged He thought that back fare should be allowed in certain cases In London it was allowed when the Carriage was taken a certain distance from Charing Cross He would move a proviso to the effect that, if the distance exceeded four miles from Government House, the owner should be entitled to demand a moiety of the fare by distance for every mile or part of a mile over and above the distance travelled Carriages and Palanquins could but go a certain distance in the day, and it was but fair to pay back fare for long distances

MR HOBHOUSE thought that the question would be better considered when they came to decide what the rates of fare should be By the proposed Schedule one Rupee and twelve annas would be the fare for six miles the extreme distance to which a Carriage could be taken under the Act That sum, he thought, was a very fair one, even for ten miles

THE ADVOCATE-GENERAL thought the circumstances of the case did not require such distinctions here This was the first attempt of an Act of the kind here. If it were necessary, the Act might be amended hereafter

MOULVY ABDOOL LUTEEF said that the question had also been considered by the Select Committee, who thought it might tend to cause confusion, the fares had been regulated accordingly

MR. COCKERELL thought the intention of the Mover of this amendment had been lost sight of. It was to point out a case where the driver of a vehicle might be in a worse position than if hired by the day.

MR. HOBHOUSE said, it did not follow that the driver must come back the whole distance with his Carriage empty, he might get a fare after returning only a part of the way.

MR. BARRY'S amendment was then negatived

MOULVY ABDOOL LUTEEF moved the omission, from Section XXVI, of the words that provided, that no driver should be bound to drive his Carriage for any time exceeding one hour from the time when hired He had at the last Meeting given his reasons for considering such an amendment necessary

The Motion was agreed to.

MOULVY ABDOOL LUTEEF moved the addition to the Section of a proviso, to the effect that when a Carriage was hired for any period exceeding an hour, a reasonable time should be allowed for rest to the horses employed in drawing the Carriage

MR. HOBHOUSE said that, although no reason had been assigned for introducing this proviso, the object no doubt was to provide that horses should not be overworked He did not think the proviso necessary You could not make a horse go farther than it could, and Palanquin bearers would not go farther than they were able. Besides, he would ask what was "a reasonable time?" Such a proviso he thought, would lead to disputes, and would also give the Magistrates a great deal of trouble in deciding them

MR BARRY thought the amendment unnecessary and inconsistent with other portions of the Bill By one Clause it was provided that a carriage could be taken six miles from the place of hiring, and by another Clause the driver was only bound to go four miles in an hour If this proviso, therefore, were passed, the driver might stop in the midst of a journey of six miles, and require time for rest He was against the amendment, and would leave such matters to be regulated as at present.

The Motion was then negatived

MR JENNINGS moved an amendment in Section XXIX limiting the amount of luggage to be carried by a Carriage to 240 pounds. He thought that it ought not to be left to persons to judge what was a reasonable quantity of luggage.

MR HOBHOUSE said a good strong Carriage would bear that quantity of luggage, but the majority of them would have a very light and weak roof

THE PRESIDENT pointed out that the English Act had the words "reasonable quantity of luggage"

MOULVY ABDOOL LUTEEF said there would occasionally be a difficulty in determining the weight of luggage, as sometimes a Carriage might be hired in the streets.

MR. JENNINGS, with the permission of the Council, withdrew his amendment.

On the Motion of Moulvy Abdool Luteef, a verbal amendment was made in Section XXXII

Section XXXV provided that in case of disputes occurring between the hirer and driver of a conveyance, if any Magistrate be sitting, the hirer may require the driver to drive to the Court of such Magistrate, who shall hear and determine the dispute in a summary way

MR JENNINGS thought that the Magistrate should not be interrupted, when perhaps in the discharge of other important duties. If it were necessary to have such a provision at all, it ought to be restricted to the case of strangers. Permanent residents should be left to take the ordinary course of proceeding by summons, or as provided in the first part of the Section. He therefore moved an amendment in the Section to that effect

MR. BARRY thought that the Act was specially designed for the convenience and protection of strangers visiting Calcutta Most of the residents had conveyances of their own He therefore thought the amendment a good one.

MR. HOBHOUSE said the object of the Section was simply for the settlement of disputes, and the question was whether they should be settled at once, or at some other time when the evidence which they might have had at the time was gone. He was therefore opposed to the amendment.

The amendment was negatived.

MR. BARRY thought the penalty imposed by Section XLII on drivers of Carriages for neglecting to deposit with the Police property left in their Carriages, insufficient Property to the value of five or six hundred Rupees might be left in a Carriage, and fifty Rupees would be too lenient a penalty in some cases. He would move the addition of the words "or a penalty not exceeding two months' imprisonment."

MR HOBHOUSE said that the penalty was simply for neglect. If the property were made away with, the driver would be otherwise punishable.

THE ADVOCATE-GENERAL said that the imposition of a fine under this Section would not affect criminal liability for misappropriation.

MR BARRY then, by leave, withdrew his motion.

On the motion of Moulvy Abdool Luteef, an amendment similar to that in Section XXVII was made in Section XLIII

MOULVY ABDOOL LUTEEF moved the substitution of the following Schedule for Schedule (A) as settled by the Council in February last. The Schedule which he proposed was almost identically the same as the Schedule prepared by the Select Committee —

"*Rates and Fares to be paid for Hackney Carriages of the Second and Third Classes*"

Description of Carriage.	Fare by Distance		Fare by Time			
	For any distance within and not exceeding one mile	For every mile or part of a mile beyond one mile	For any time within and not exceeding one hour	For every hour or part of an hour beyond one hour	For half a day or five hours	For a whole day consisting of nine hours.
	As	As.	As	As.	Rs.	Rs. As.
Second class	8	4	12	6	2	3 0
Third class	3	2	6	3	1	1 8

The above Fares to be paid according to distance or time at the option of the hirer,

to be expressed at the commencement of the hiring; if not otherwise expressed, the Fare to be paid according to time"

MR. HOBHOUSE would omit the last two columns of the proposed schedule. He would let all fares by time be paid at the rates given in the 3rd and 4th columns, the difference would be very slight In the case of second-class carriages, the fare for half a day would amount to two rupees and four annas, instead of two rupees, and for a whole day it would amount to three rupees and twelve annas, instead of three rupees. He thought it therefore unnecessary to retain the last two columns

MR. HOBHOUSE'S amendment having been negatived, the schedule was agreed to

MOULVY ABDOOL LUTEEF moved the substitution of the following schedule for Schedule B —

"*Rates and Fares to be paid for Palanquins*

FARE BY DISTANCE			FARE BY TIME				
For any distance within and not exceeding quarter of a mile	For any distance within and not exceeding one mile	For every mile or part of a mile beyond one mile	For any time within and not exceeding one hour	For every hour or part of an hour beyond one hour	For any time not exceeding five hours	For any time exceeding five hours but not exceeding a day	For a whole day
As.	As.	As.	As	A P	A	Rs A	
1	3	2	5	2 6	12	1 4	

The above Fares to be paid according to distance or time at the option of the hirer, to be expressed at the commencement of the hiring, if not otherwise expressed, the Fare to be paid according to time."

MR. HOBHOUSE moved the omission of the first column of the proposed schedule From enquiries he had made of Native gentlemen, he believed that the rate proposed was too low they had never heard of a Palanquin being hired for one anna, however short the distance.

BABOO PROSONNO COOMAR TAGORE corroborated the statement of the last speaker The shortest trips taken by Native females were from one house to another, or to the river's bank for the purpose of bathing; but one anna was too little for any case.

MOULVY ABDOOL LUTEEF said that at present Native females went from one house to another and returned for two annas He had no objection to make the rate one anna and a half.

THE ADVOCATE-GENERAL and MR ALLEN opposed the insertion of the fare in the first column.

The motion to omit the first column having been carried, the rest of the schedule was agreed to

On the motion of Moulvy Abdool Luteef, the Bill was then passed.

REGULATION OF JAILS.

MR HOBHOUSE said he would postpone the consideration of the report of the Select Committee on the Bill for the regulation of Jails and the enforcement of discipline therein. The fact was, that within the last few days he had occasion to reconsider the Bill, and he thought that it would be better that the Select Committee should reconsider their report. He did not think there was any occasion to hurry the passing of the Bill It would be much better to reconsider the report, and, if necessary, to submit a re-amended Bill

The Council was adjourned to Saturday, the 16th instant

Saturday, January 16, 1864

PRESENT

His Honor the Lieutenant-Governor of Bengal, *Presiding*

T H Cowie, Esq., *Advocate-General*,
W J Allen, Esq.,
C P Hobhouse, Esq.,
F R Cockerell, Esq.,
Moulvy Abdool Luteef, Khan Bahadoor,
Rajah Pertaub Chand Singh,
Baboo Prosonno Coomar Tagore,
Baboo Ramgopaul Ghose,
F. Jennings, Esq., and
J B Barry, Esq

THE ADVOCATE-GENERAL took the usual Oaths and his seat as Member of the Council.

MANUFACTURE AND TRANSPORT OF SALT.

MR. ALLEN postponed the motion (which stood in the list of business), that the Bill to amend and consolidate the laws relating to the manufacture, possession, transport, and sale of Salt in the provinces under the control of the Lieutenant-Governor of Bengal be read in Council.

The Council was adjourned to Saturday, the 30th instant.

Saturday, January 30, 1864.

PRESENT

HIS HONOR the LIEUTENANT-GOVERNOR of BENGAL, *Presiding*

T. H. Cowie, Esq. *Advocate-General*,
W. J. Allen, Esq.,
C. P. Hobhouse, Esq.,
F. R. Cockerell, Esq.,
Syed Azumoodeen Hossun, Khan Bahadoor,
Baboo Romgopaul Ghose,
F. Jennings, Esq.,
J. B. Barry, Esq.,
Moonshee Ameer Ali, Khan Bahadoor, and
Rajah Sutt Shurn Ghosaul, Bahadoor.

SYED AZUMOODEEN HOSSUN, MOONSHEE AMEER ALI, and RAJAH SUTT SHURN GHOSAUL having made a solemn declaration of Allegiance to Her Majesty, and that they would faithfully fulfil the duties of their office, took their Seats in the Council.

MANUFACTURE AND TRANSPORT OF SALT.

MR. ALLEN moved that the Bill to amend and consolidate the laws relating to the manufacture, possession, transport, and sale of Salt in the provinces under the control of the Lieutenant-Governor of Bengal, be read in Council. On moving for leave to bring in the Bill, he had explained that an alteration of the existing Salt Laws had become necessary, in consequence of the cessation of the manufacture of Salt on account of Government. In future the supply of Salt would be looked for from private manufacture under license and importation by Sea. By the proposed enactment all those portions of the existing law, which related to the manufacture of Salt on account of Government, the appointment of Salt Officers, their powers, and duties, would be repealed, and the other portions of the present law applicable to private manufacture, and to the transport of Salt under passes, within certain limits, would be re-enacted with a few modifications. There was hardly anything new in the Bill. It was the wish of Government to remove all unnecessary impediments in the way of private manufacturers, and to give them every encouragement to compete with the importers of Salt. He would briefly refer to the principal sections of the Bill. If it were found in regard to Section 2 that the definition of the word "Salt" was not sufficiently comprehensive, as it did not include *nooncheye* or *puckwa* an alteration could be made in Select Committee. Section 8 of the Bill provided that the rate of duty to be paid on manufactured Salt should be the same as the Customs Duty. Section 10 enabled the Government to fix the limits within which the possession, transport, and sale of Salt should be regulated. The limits which the existing law defined had of late been very much circumscribed. It was therefore thought proper to leave the Government from time to time to define the limits instead of fixing them absolutely by law. The chief alteration of the law was contained in Section 27, which provided that forfeitures should be adjudicated by the Magistrate, and that he should be guided by the Rules of the Code of Criminal Procedure regarding trials and appeals. He thought the provision of Section 35 of the Bill giving the Board of Revenue power to mitigate penalties, was likely to work well. It enabled the Board, in cases of legal convictions which could not be upset by Courts of law, to mitigate or remit the penalties imposed, if, on a revision of the whole case, it were found that it was just and proper to do so. There had been a case lately in Hooghly, in which a large quantity of contraband Salt was

ordered to be confiscated and a fine of Rs. 10,000 had been imposed. The whole proceedings were perfectly legal; but as it appeared to the Board, on representation of the parties, that there had been no intention of evading the law or infringing its provisions, but that it arose simply from the carelessness of servants, they remitted the penalty, merely imposing a small fine. All the adulteration Clauses of the existing laws were omitted, as it was thought that sufficient provision for such an offence was made in the Penal Code, but he might mention that the Inspector-General of Police thought some special provision necessary. That suggestion, however, might be considered by the Select Committee. He hoped the Council would find that something had been done to improve and simplify the law, which at present was scattered through a considerable number of Regulations and Acts.

The Motion was agreed to.

On the Motion of Mr. Allen the Bill was referred to a Select Committee consisting of the Advocate General, Mr. Hobhouse, Baboo Ramgopaul Ghose, Mr. Barry, and Mr. Allen.

REGULATION OF JAILS.

MR. HOBHOUSE moved that the Report of the Select Committee on the Bill for the regulation of Jails and the enforcement of discipline therein, be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee. In making this motion, he did not propose to speak of those Sections of the amended Bill that remained in the re-amended Bill which was now submitted, but only on one or two of those Sections that the Select Committee had recommended should be struck out. They had proposed to omit Section 5 of the Bill as read in Council. That Section provided that it should not be lawful to confine Civil prisoners in a Criminal or a Central Jail, nor to confine Criminal prisoners in a Civil Jail, but that a Civil and a Criminal Jail might be within the limits of the same building. The object of that Section appeared to be two-fold: first, that Civil prisoners should not be confined in a Criminal Jail, and, secondly, that yet, in cases of emergency, the Government should have power to place Civil prisoners in Criminal Jails. Both those objects seemed, however, to be attained in the Bill as now amended. By Section 16 Civil prisoners must be kept apart from Criminal prisoners; there, therefore, seemed to be sufficient provision in the Bill for the keeping apart of those two classes of prisoners. But still any Criminal and Civil Jails might be in one and the same building, and, in fact, such was generally the case, even with regard to the Great Jail at Calcutta. That being so, it should be left to the Government to provide that in what was called the Civil Jail there should be proper accommodation for Civil prisoners, and that in the Criminal division of the Jail, accommodation such as was necessary for Criminal prisoners should be provided. There was, therefore, no necessity for Section 5 of the original Bill, which had accordingly been struck out. The Select Committee had also struck out Section 14. It was thought better that the procedure to be observed on the discharge of a prisoner, or in the event of a death in Jail, should be prescribed by the Rules to be framed by Government, than by legal enactment. Section 28 of the original Bill provided that it should be lawful for the Lieutenant-Governor to extend the provisions of the Act to any Jails that might hereafter come under such control, but as the whole Act provided that there should be Jails in every District, and that they should be under the control of the Government, it did not appear necessary to provide specially for Jails that might hereafter come under such control. He would reserve any further observations that might be considered necessary till the Council went into the consideration of the Bill, Clause by Clause.

The Motion was agreed to.

On the Motion of the Advocate-General some verbal amendments were made in Section 1 which repealed some portions of the existing law which had already been virtually repealed.

Section 2 (the interpretation Section) having been read, it was amended on the Motion of the Advocate-General by the incorporation into it of the definitions of the terms "Magistrate," "Magistrate of a District," "the powers of a Magistrate," and "Criminal Court," as contained in the Code of Criminal Procedure, instead of containing a mere reference to those definitions. And on the Motion of the President the definitions of the terms "District" and "Division of a District" as in the Code, were substituted for the definition of those words in the Bill.

Section 3 was agreed to.

A verbal amendment was made in Section 4 on the Motion of the Advocate-General.

Sections 5 and 6 were agreed to.

On Section 7 (empowering the Government to make Rules and appoint Visiting and Medical Officers, being read—

After a verbal amendment had been made on the Motion of Mr. Hobhouse, the PRESIDENT suggested that the Commissioner of the Division and the Judge of the District should be declared by law to be *ex-officio* Visiting officers. No doubt the Government could appoint, and most probably would appoint, those Officers under the provisions of the Section; but their responsibility would, he thought, be more marked by their functions being declared by law. He therefore moved the addition to the Section of the following words —

"The Commissioner of the Division and the Judge of the District shall be *ex officio* Visiting Officers."

MR. HOBHOUSE believed that the Rules which had already been drafted, required that the Judge should be a visitor *ex-officio*, and there would be nothing to prevent their also providing that the Commissioner should also be an *ex-officio* Visitor, but he saw no objection to the words being inserted in the law.

The Motion was agreed to.

THE ADVOCATE-GENERAL thought another amendment in the Section necessary. It appeared to provide only for the making of Rules regarding the supervision and employment of prisoners in Jails, but the old Regulation also provided for the case of their employment on works outside the Jail. Some provision for such cases ought to be made in the Bill. He would therefore move the omission of the words "and for the management of Jails" after the word "prisoners" in the 6th line, and the substitution for them of the words "in Jails, and of prisoners in transit or employed outside the Jail."

MR. HOBHOUSE thought the amendment unnecessary, the terms of the Section being sufficiently general. Under it the Government might frame Rules for the employment of prisoners outside the Jail, such as in Jail gardens and the like.

THE PRESIDENT said it struck him that there was a positive objection in any allusion in the Act to outside employment. The Government had for some years been engaged in devising means for the employment of prisoners in Jails, and extra-mural employment was now only allowed in exceptional cases.

THE ADVOCATE-GENERAL then, by leave, withdrew his amendment, and the Section was passed.

On Section 8 being read,—

THE ADVOCATE-GENERAL said, he did not know whether it was considered objectionable to postpone the consideration of Section 8, and the two following Sections, to another meeting. He believed that the Select Committee had felt some difficulty in settling those Sections. By Section 8 the Inspector-General was to see that the Rules framed under the previous Section were properly carried out; but he thought the Government should prescribe some Rules for the guidance of the Inspector-General himself. There seemed, however, to be no provision to enable the Government to do so. He observed that

Act VIII of 1856, providing for the appointment of Jail Officers in Madras and Bombay, was couched in very general terms, and seemed to provide for something more than was included in the three sections he had referred to.

MR. HOBHOUSE said it was quite true that the Select Committee had had considerable difficulty in settling the Sections to which the learned Advocate-General referred, but those difficulties were not of the nature supposed. He did not think that under Section 7 the Government would be prevented from making Rules for the guidance of the Inspector-General as well as any other person—in fact, in the Rules already framed, there were some for the guidance of the Inspector-General The only other provision of these sections, was that by which the Inspector General was to be vested with the powers of a Magistrate and with the powers of the Officer in charge of the Jail. That provision he thought was necessary, as it might often happen that the Inspector-General might find a Jail in such a state of bad discipline that he might consider it necessary himself to take charge of the Jail for a time, and if an *emeute* took place in the Jail, and were aided by persons outside, it would be necessary also for the Inspector-General to exercise the powers of a Magistrate These were generally the reasons on which the Select Committee had framed those Sections

THE PRESIDENT thought that the Council should at once proceed to the consideration of these Sections instead of postponing them. If the learned Advocate-General proposed a substantive provision in substitution of those three Sections, he, for one, would be disposed to support him It seemed to him that the Section of the Bombay Act which had been referred to included all the requisite provisions of the three Sections under consideration

THE ADVOCATE-GENERAL then moved the omission of Sections 8, 9, and 10, and the substitution for them of the following Section —

"The Lieutenant-Governor of Bengal shall appoint such person or persons as he shall think fit, to inspect and superintend the Jail in every District in the said Provinces, subject to the orders of the Government, and shall vest in such person or persons such authority for the purpose, as may seem proper."

The Motion was agreed to.

On Section 11 being read—

The ADVOCATE-GENERAL said he thought it unnecessary that the Inspector-General should approve of the person to be appointed a Jailor; he therefore proposed to omit from the Section the words requiring such approval

MR HOBHOUSE did not think that the Officer to be placed in charge of Jails should have in his hands the appointment of the Jailor without any control at all By the old law the Sessions Judge had a control over the appointment, and now in practice, the Inspector-General had a veto

MR ALLEN agreed with the learned Advocate-General in thinking that there was no necessity for the Inspector-General to interfere with the appointment of a Jailor, for he could not possibly be acquainted with the character of the person to be appointed, the real responsibility must therefore rest with the Magistrate

MR COCKERELL, from his experience as a Magistrate, thought that the provision of the old law requiring such approval had proved a failure; the interference of the Inspector-General had practically worked more mischief than advantage

THE PRESIDENT said it seemed to him rather an extension of the functions of the Inspector-General to give him any such power. If any approval was necessary, he thought it ought to be given to the Visitors He objected to the entire wording of the Section, and thought that it should simply provide that a Jailor should be appointed for every Jail.

THE ADVOCATE-GENERAL then, by leave, withdrew his amendment, and moved to substitute the following Section for that in the Bill:—

"Subject to such Rules as the Government shall make under Section VII of this Act, there shall for every Jail be appointed a person to be Jailor of such Jail."

With regard to the last portion of the Section as it stood in the Bill, which provided that the Jailor should be responsible for the safe custody of prisoners, it appeared to him objectionable in point of law, for by law, not only the Jailor, but the Officer in charge of the Jail was responsible. By Act XVIII of 1862 of the Governor-General's Council, both the Officer in charge of the House of Correction and the Keeper were declared responsible. Even if this Bill were silent on the subject, the responsibility would rest on both Officers under the general law; but, as the Section stood, it seemed calculated to raise a possible construction that the Officer in whom the control of a Jail was vested was not responsible, although in his opinion that was not the case.

MR HOBHOUSE admitted it to be the intention of the Section that the Jailor, and not the Officer in charge should be responsible He believed the Magistrate would almost always be the Officer having control of the Jail. He would visit the Jail once twice, or three times a week, most Magistrates had not time to visit the Jail more than once, it therefore was a sham to make him responsible, whereas the Jailor was always on the spot, and he was the person who really received and discharged prisoners, and the real working man on whom the responsibility always rested and should rest. The case put by the learned Advocate-General was not, he thought, an analogous one. To receive and take charge of prisoners was one of the main parts of the duties of the Sheriff, but was only a very small part of the multifarious duties of the Magistrate

MR. ALLEN did not think that it was at all necessary that the Bill should say who was responsible, but if the Council must say so, he was of opinion that both the Jailor and the Officer in charge of the Jail should be made responsible. He thought it better to leave the Government to decide in each case who was to be held responsible

THE PRESIDENT could scarcely suppose that there could be a doubt as to the responsibility of the Magistrate for the safe custody of prisoners. No doubt the Jailor was responsible to the Magistrate; but the Magistrate was responsible to the Government and to the public, and he should take such precautions for safe custody as he thought necessary. He (the President) must demur to the remarks of the Hon'ble Member in charge of the Bill, who said that in reality the Jailor was in charge of the Jail. That was not what he (the President) thought the duty of a Magistrate with regard to the Jail ought to be. He thought that in those Districts where a Magistrate was unable to look after the Jail himself, he would depute it to one of his assistants, or to the Joint or Deputy Magistrate, and if one or other of those Officers were unable to visit the Jail daily, he should not think that the duty had been properly performed If he were right in his view of the duty of a Magistrate in regard to the Jail and the way in which it should be performed, there could be no doubt of the responsibility of the Magistrate for the safe custody of prisoners. He therefore was of opinion that the latter part of the Section should be left out But if any enactment on the subject were necessary, he was clearly of opinion that the responsibility of the Magistrate as well as of the Jailor should be expressly laid down

THE ADVOCATE-GENERAL'S Motion was then agreed to

Section 12 was agreed to

On Section 13 (providing for the release of prisoners in certain cases) being read—

MR. COCKERELL moved the omission of the words "with the sanction of a Visitor of the Jail" in the 5th and 6th lines The Government, he said, had the power of appointing any person to be a Visitor of a Jail, and in his opinion it would not be sufficient to have the sanction only of a Visitor He

The Advocate-General

thought the Magistrate ought to be warranted by the certificate of the Surgeon that it would be dangerous to the life of a prisoner that he should be retained in Jail.

THE ADVOCATE-GENERAL thought it would be better to omit the words referred to and leave it to the Government, under the Rules, to direct the course to be followed prior to the release of a prisoner under the Section.

MR. HOBHOUSE said that the Section originally required such a certificate as well as the subsequent approval of the Government, but it was thought better to leave that to the rules, and merely to require in the Act the sanction of a Visitor.

The Motion was carried, and the Section as amended agreed to.

Sections 14, 15, and 16 were agreed to.

On Section 17 (regarding the placing of fetters on Criminal prisoners) being read—

THE ADVOCATE-GENERAL moved the omission of the Section. He thought the Section unnecessary and calculated to lead to a wrong construction of the law. As Section 7 now stood, with the addition of the word "custody," which the Council had just introduced, it was quite clear that it would be competent to Government to provide by the rules for the placing of fetters.

MR. HOBHOUSE said the Section had been introduced with an uncertainty as to the law and in order to raise a discussion on the question.

The Motion was agreed to.

On Section 18 (punishment for breaches of Rules and of Jail discipline) being read—

MR HOBHOUSE explained that this Section also had been introduced as a compromise and in order to raise a discussion. There had been a difference of opinion amongst the Members of the Select Committee. The Section as it stood would subject all prisoners to certain punishments. They were, in the case of breach of Jail Rules, solitary confinement, separate confinement, or fine; and in the case of refractory conduct, solitary confinement, separate confinement, confinement in irons, or corporal punishment. He certainly was of opinion at one time that when a Civil prisoner had committed a breach of Jail Rules, he ceased to be a Civil prisoner and became an offender; but subsequently he had been induced to agree with Moulvy Abdool Luteef, and he believed also Mr. Graham, that a distinction should be made between the two. He thought it would be a hardship to Civil prisoners that they should have fetters placed on them, or that they should be subjected to corporal punishment. He thought also that it would be absurd to inflict a fine on Criminal prisoners; and as for separate or solitary confinement they did not care for them. The only punishments they would feel would be corporal punishment, reduction of diet, and extra work. He would therefore move the following new Section in substitution of the Section as it stood —

"It shall be lawful for the Officer in whom the control of a Jail shall be vested, to enquire into all breaches of the Rules that may be made under this Act, and to punish prisoners guilty of any breach thereof, or of violent or refractory conduct, or of any insolent language, or of refusing or wilfully neglecting to perform the work, or wilfully mismanaging the work, allotted to them, or of wilfully disabling themselves for labor, by reduction of diet to such extent as the Government shall by rule prescribe, by solitary confinement which shall not extend beyond three days, by separate confinement or confinement in irons for not more than seven days, or by corporal punishment not exceeding thirty stripes of a rattan: *Provided that corporal punishment shall not be inflicted on any female prisoner or any person imprisoned in a Civil Jail. Provided also that no person imprisoned in a Civil Jail shall be liable to confinement in irons.*"

MR ALLEN thought that females should not only be exempted from corporal punishment, but also from being fettered. He should therefore move as an amendment in the proposed Section that the following words be substituted for the Proviso therein:—

"Provided that corporal punishment or confinement in irons shall not be inflicted on

any female prisoner or any person imprisoned in a Civil Jail."

MR. HOBHOUSE could not agree to the amendment. He had heard of occasions when it was absolutely necessary to place woman in fetters.

MR. JENNINGS thought the provision requisite. He was sure that no Magistrate would enforce such a law unless it might be necessary.

The Council then divided as follows on Mr. Allen's amendment:—

Ayes 6.	*Noes* 5
Moonshee Ameer Ali	Rajah Sutt Sharn Ghosaul
Mr Barry.	Mr Jennings
Baboo Ramgopaul Ghose.	Mr Hobhouse.
Syed Azumoodeen Hossen.	The Advocate-General
Mr. Allen.	The President.
Mr Cockerell	

So the amendment was carried, and the Section as amended was agreed to.

Sections 19, 20, and 21 were agreed to.

On Section 22 (providing for the punishment of certain prisoners for escaping or attempting to escape from Jail) being read—

THE ADVOCATE-GENERAL moved to omit the Section. The Penal Code provided for the offence of Criminal prisoners escaping or attempting to escape from Jail, and in doing so exactly followed the English law, which made it an offence indictable as a misdemeanour or a felony as the case might be. This Section, however, provided for the punishment of Civil prisoners. It must be recollected that Civil prisoners had committed no offence against the public, but were merely in Jail for a private debt, and in the eye of the law they were not in the custody of the law so much as of their creditors. Irrespectively of that view of the case, when they found that the Legislature that passed the Penal Code had cautiously limited the offence to Criminal offenders, he was not sure that they would not be infringing the provisions of the Indian Councils' Act in enacting this Section, at any rate, he would say that they would be acting contrary to the policy and intention of that Act.

MR. HOBHOUSE begged to explain that this also was a debated Section in Committee on the same principle as Section 18, and he had intended to move an amendment on it. By the old law, Civil prisoners escaping or attemping to do so were punishable by close confinement for two months, or by reduction of diet. This provision was, however, rendered nugatory by another, which provided that on the expiration of the period of a Civil prisoner's imprisonment, the Judge, by whose order he was committed to Jail, might order his immediate release. He thought some provision on the subject was required. He would therefore propose the substitution for Section 22 of the following Section —

"Whoever being a prisoner in confinement in any Civil Jail shall escape or attempt to escape therefrom, shall be liable on conviction before a Magistrate to be punished with simple imprisonment in the Civil Jail for a term which may extend to two months, or with fine which shall not exceed fifty Rupees or with reduction of allowances.

THE ADVOCATE-GENERAL observed that in the old Regulation referred to (III of 1826), an attempt to escape was not treated in the same way as in this Section, it was merely mentioned as an instance of disorderly conduct, or a breach of Jail discipline. It was not treated, as in this Section, as a substantive offence. He would leave such cases to be provided for in the Rules, and would omit this Section.

MR HOBHOUSE said that besides what were strictly called Civil prisoners, the Section of the Bill which they were considering also related to two other classes of persons, viz those confined under Chapters XVIII and XIX of the Code of Criminal Procedure. The former were persons who were imprisoned in default of recognizances to keep the peace, and the latter in default of giving security for good behaviour. Now the persons so confined

would generally be very troublesome; they were, in fact, the bad characters in the District, and sometimes the worst persons to be dealt with in Jails; yet, if this Section were struck out, they could not be punished for escaping or attempting to escape. And so with regard to the next Section, which provided for persons suffering or aiding such persons to escape.

The Council then divided:—

Ayes 5.	*Noes* 6.
Mr. Jennings.	Rajah Sutt Shurn Ghosaul.
Baboo Ramgopaul Ghose.	Moonshee Ameer Ali.
Mr Hobhouse	Mr Barry
Mr. Allen.	Syed Azumoodeen Hossun
The President.	Mr Cockerell.
	The Advocate General.

So the Motion was negatived, and the Section struck out.

On Section 23 being read—

MR. COCKERELL said that though the Council had decided that civil prisoners and prisoners confined in default of recognizance or security should not be punished for escaping or attempting to escape from Jail, he thought that this Section ought to be retained with the omission of the words referring to those classes of prisoners, so that Jail guards and others should be made punishable for suffering Criminal prisoners to escape.

THE PRESIDENT thought that if they were told by the Advocate General that the enactment of this Section would infringe the provisions of the Indian Councils' Act, it ought to be omitted

THE ADVOCATE-GENERAL observed that he did not say that it would be absolutely against the Act In his opinion the policy and intention of that Act was that legislation on such matters should take place in the Imperial Council

THE PRESIDENT agreed with Mr Hobhouse in thinking that Jail guards should be punished for suffering Civil prisioners, and more especially those referred to in Chapters XVIII and XIX of the Code of Criminal Procedure, to escape. If they so neglected their duty as to suffer prisoners to escape, or connived at their escape, they ought to be criminally punished. But by omitting the previous Section and retaining this one, the Council would be punishing the abettor or accessary when there was no substantive offence

THE ADVOCATE-GENERAL hoped that it would not be at all considered that, in moving the omission of the Section, he thought that the neglect or connivance of Jail guards in these cases should not be an offence. His opinion was that the Section must stand or fall with the previous one; and because we did not think that it was for that Council to provide for the substantive offence of breach of Jail Rules in cases which had apparently been intentionally omitted by the Imperial Legislature in framing the Penal Code, he was of opinion that this Section should be struck out That appeared to him to be the only consistent or proper course for the Council to pursue.

The Council then divided on the Motion to omit the Section:—

Ayes 7.	*Noes* 4
Rajah Sutt Shurn Ghosaul.	Mr. Jennings.
Moonshee Ameer Ali.	Syed Azumoodeen Hossun.
Mr. Barry.	Mr. Hobhouse
Baboo Ramgopaul Ghose	Mr. Allen.
Mr Cockerell.	
The Advocate General	
The President.	

So the Motion was carried and the Section was omitted.

Sections 24 and 25 and the Preamble and Title were agreed to

MUNICIPAL ASSESSMENT AND CONSERVANCY OF TOWNS AND VILLAGES.

On the Motion of Mr. Cockerell, Baboo Ramgopaul Ghose and Moonshee Ameer Ali were added to the Select Committee on the Bill to provide for the appointment of Municipal Commissioners in Towns and other places in Bengal, and to make better provision for the conservancy, im

provement, and watching thereof, and for the levying of rates and taxes therein.

The Council was adjourned to Saturday, the 6th February.

Saturday, February 6, 1864.

PRESENT:

T. H. Cowie, Esq., *Advocate General, Presiding.*

W. J. Allen, Esq.,
C. P. Hobhouse, Esq.,
F. L. Cockerell, Esq.,
Syed Azumoodeen Hossain Khan Bahadoor,
F. Jennings, Esq.,
J. B. Barry, Esq.,
Moonshee Ameer Ali Khan Bahadoor.
and
A. T. T. Peterson, Esq.

MR. PETERSON took the usual oaths and his seat as a Member of the Council.

REGULATION OF JAILS.

MR. HOBHOUSE moved that the Bill for the regulation of Jails and the enforcement of discipline therein be further considered in order to the settlement of the Clauses of the Bill. The alterations which he proposed to make were chiefly of a verbal nature and appeared to be necessary in order to avoid confusion. The principle of the Bill was that in every District and place there should be Jails, and that they should be presided over by certain Officers who should have control over them, and that the Jails should be visited by certain other Officers and persons appointed for the purpose. But the question had arisen, whether the word "District" would include Provinces which were placed under what was called the non-Regulation system. He believed that the learned Advocate General and the Honorable Member on his left (Mr. Peterson) whose opinion on such matters would have great weight with the Council, thought that the word "District" would not include such places.

The Motion for the further consideration of the Bill was agreed to.

MR. BARRY would suggest for consideration whether it would not do to leave out the word "District" from the Bill, as he believed there was a Magistrate wherever there was a Jail.

MR. PETERSON was of opinion, that it would be better, to prevent difficulties that might arise in the construction of the Act, to insert the words "or place" after the word "District" throughout the Bill. He spoke under correction, but he thought that there might be some populous towns in Districts which had Jails separate from the Jail of the District. The words "or place" would include Jails in such places.

THE ADVOCATE GENERAL thought it would be sufficient if those words were only inserted in the Interpretation Section.

MR. PETERSON expressed his concurrence with the view taken by the Advocate General.

MR. HOBHOUSE then moved the insertion of the words "or place" in Section 2 in the interpretation of the terms "Magistrate of the District" and "District."

The Motion was agreed to, and the Section as amended was passed.

Verbal amendments were made, on the Motion of Mr. Hobhouse, in Sections 8 and 9.

MR. HOBHOUSE thought an amendment of an important nature was requisite in Section 15, which prescribed solitary confinement, amongst other punishments, for breach of Jail Rules. By the Penal Code, Section 74, it was laid down that solitary confinement "shall in no case exceed fourteen days at a time with intervals between the periods of solitary confinement of not less duration than such periods." But if this Section were carried out as it stood, a person might be punished for breach of Jail discipline by solitary confinement for three days, and if he were again to commit the same offence, he might be punished in the same way for the same period, and so on as often he might offend: punishment by solitary confinement might thus exceed the period which the Penal Code prescribed for even the most heinous offence. But he did not

think, as a matter of fact, that solitary confinement was much resorted to for breach of Jail discipline: and in the case of minor offenders and civil prisoners, he was of opinion that it would be punishing such persons with a greater amount of punishment than such persons ought to be called upon to bear

THE ADVOCATE-GENERAL concurred in the propriety of omitting the words referred to

The Motion was agreed to, and the Section as amended was passed.

On the Motion of Mr Hobhouse, the Bill was then passed.

MANUFACTURE AND TRANSPORT OF SALT

On the Motion of Mr Allen, Mr Peterson was added to the Select Committee on the Bill to amend and consolidate the laws relating to the manufacture, possession, transport and sale of Salt in the Provinces under the control of the Lieutenant Governor of Bengal

The Council was adjourned to Saturday, the 20th instant

Saturday February 20, 1864

PRESENT

His Honor the Lieutenant-Governor of Bengal

Members

F H Cowie, Esq Advocate-General
W J Allen, Esq
C P Hobhouse, Esq
F R Cockerell Esq
Syed Azumooddeen Hossain Khan Bahadoor,
H Bayley, Esq
Baboo Ramgopaul Ghose
Moonshee Ameer Ali and
A T T Peterson Esq

DISTRICT MUNICIPAL IMPROVEMENT

MR COCKERELL moved that the Report of the Select Committee on the Bill to provide for the appointment of Municipal Commissioners in Towns and other places in Bengal, and to make better provision for the conservancy, improvement, and watching thereof, and for the levying of rates and taxes therein, be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee. He wished briefly to call the attention of the Council to some material alterations which had been made in the Bill by the Select Committee. It was not the object of the Bill that the rate imposed by it should fall upon lands devoted to cereal produce, but that lands appurtenant to buildings, gardens, and plots of ground, should become subject to taxation, as from their recently increased value they fairly might An alteration had been made with a view to greater distinctness on this point in the interpretation of the word "land" in Section 2 A slight change had also been made with the same object in Section 24 In Section 3 it had been thought necessary to limit the operation of the Bill as read in Council to tracts of country in the vicinity of towns, stations bazars, and villages The intention was that the Act should not be extended over thinly populated country, and the language of the revised Bill, together with the method of the taxation proposed, clearly showed the nature of the tracts of country to which the provisions of the Bill would be applied. Amendments had been made in Section 5 of the revised Bill by the repeal of Act VII of 1858, and certain sections of Act XXI of 1857, with a view to the operation of this Act in Howrah and the Suburbs of Calcutta, instead of there being separate laws of a less comprehensive character for those places An important addition had been made to the Bill, in conformity with its scope, in regard to improvements to be effected by the Commissioners Section 13 of the amended Bill would enable them to carry out works of public utility, and they were also empowered to raise money, with the sanction of Government, for works of a permanent character In Section 23 a material alteration had been made by the Select Committee. It had been felt that in a measure of

this kind it would be better not to fix so high a maximum as 10 per cent., and although perhaps he might have preferred a maximum of 8 per cent yet a majority of the Committee were of opinion that it should be fixed at 7½ per cent. It would be for the consideration of the Council whether some minimum rate should not be fixed; for his own part he thought a minimum should be fixed, and that 8 per cent. should be substituted for 7½ in the Bill. Section 31 fixed the proportion of the Municipal Fund to be set apart for purposes of Police, and in so doing followed the provisions of the old law by enacting that the proportion of Police Officers should not exceed one to every twenty-five houses. With regard to the horse and carriage tax, there was this difference between Act XII of 1858 and the corresponding Sections of this Bill Under that Act the proceeds of the tax were applied to the repair of roads; while under the proposed law they would be credited to the General Municipal Fund and would be applied to the purposes of the Act generally. Another difference was that under Act XII of 1858 the proceeds of the tax were dealt with by the Magistrate; they would now be under the control of the Municipal Commissioners. In reference to the recovery of the damages and expenses that might be incurred by the Commissioners in consequence of the neglect or refusal of owners or occupiers to comply with the requirements of the Act, two Magistrates might, as the Bill read in Council stood, award damages in favor of a body of which they themselves were Members. But in the revised Bill such damages and expenses were declared to be recoverable as debts due to the Commissioners, and the adjudication was left to the ordinary Civil Courts. He would not further detain the Council, as it would be more convenient that matters of detail should be discussed in Committee.

MR. PETERSON said that if the interpretation of the word "owner" stood as it did, confusion might arise as to the persons liable to the rate imposed by this Bill. It ought to be remembered that in the Mofussil the landlord was very seldom the owner of the house built on his land; the house was generally built and owned by the tenant. In many cases the landlord might, under the provisions of the Bill, be called on to pay a greater amount than he received as ground rent.

MR. COCKERELL said, that if he rightly understood the Honorable Member, his objection was that the whole rate would fall upon the Zemindar, and no portion of it on the tenant who might erect a building on his land; but he did not anticipate any such difficulty. The definition of the word "land" included buildings and their appurtenances, and it appeared clear that the owner of the land would be assessed only on the rent he received, and the owner of a house on the land would be assessed according to its value.

THE PRESIDENT thought that the Council were anticipating a discussion which might rightly take place when they proceeded to the settlement of the Clauses. The question at present was that the Clauses of the Bill be taken into consideration, and he did not understand any Member to object to that course.

BABOO RAMGOPAUL GHOSE, if not out of order, would move an amendment upon the Motion before the Council. He did not think it desirable that the consideration of the Clauses of the Bill should be proceeded with that day. This, he thought, was the most important Bill of the Session, and affected the interests of the entire Community throughout the Province of Bengal. Many important alterations had been made in the Bill by the Select Committee, and it had not been published in its amended form. A Bill of so important a character which had been so much altered, should be published before the Council took its Clauses into consideration. The destructive nature of the late epidemic had been given as one of the reasons for the introduction of the Bill. The causes of that epide-

mic were not yet clearly known, and he understood that a Commission had been lately appointed to investigate those causes and devise remedies. The report of that Commission might be shortly expected, and might be of use in the consideration of this Bill. There was no pressing necessity for passing this Bill immediately, and he thought it was due to the public that the amended Bill should be ordered to be published in the Gazette. He would move that it be ordered to be so published and be taken into consideration on that day fortnight.

MR. HOBHOUSE did not think the report of the Epidemic Committee, when made, would have such a connection with the Bill before the Council that they ought to postpone the consideration of it in expectation of certain discoveries being made as to the causes of the epidemic. If the epidemic had been the only reason why the Bill had been introduced into the Council there might be good ground for waiting for the Report of the Committee, but, as he understood the matter, the epidemic was not the only reason for the introduction of the Bill. Previous measures for the Conservancy of Towns had proved of no effect, and Act XXVI of 1850, which had been on the Statute Book for about fourteen years, had not been applied, he believed, to more than six or seven towns in Bengal, and in some cases the application of its provisions had not been called for by the inhabitants of the towns which seemed most to require such a law. He referred to Dacca and Patna, among other places. The Bill therefore had not been introduced simply on account of the epidemic, but in order to enable the Commissioners to introduce measures for the improvement of towns. He, therefore, did not think that the Honorable Member had assigned any sufficient reason for the postponement of the consideration of the Bill.

The amendment was negatived, and the Council proceeded to the consideration of the Clauses.

Section 1 was agreed to.

On Section 2 being read—

MR. PETERSON repeated the objection he had previously made to the definition of the word "owner." The Section defined the word "owner" to mean the person for the time being receiving the rent of land, &c., &c., and it was clear to him that under that definition, the owner of the land might be liable to be assessed for buildings on the land not his own property, and possibly of much greater value than the land. He would suggest the insertion of the words "and buildings or either of them" after the word "land."

THE ADVOCATE-GENERAL could not concur in the opinion of his Honorable and learned friend. As the Section stood it was not open to the objection which had been taken to it. The word "land" was defined to include buildings with their appurtenances, and plantations and gardens, and taking the definition of "owner" in conjunction with the definition of "land," it was clear that, in the case referred to by his learned friend the owner of land would be assessed according to the rent he received for the land, and the owner of the building for the rent he received for the building.

MR ALLEN said, that the definitions were indistinct was clear from their requiring so many explanations. He thought that it might be amended in the mode suggested by the Honorable and learned Member (Mr. Peterson) The word "owner" was very imstimctly defined.

THE PRESIDENT said, that as he understood the Clause, it meant that when a Zemindar let land upon which a building was erected by the tenant, and that tenant let his house to another person, the Zemindar was liable to be assessed on the rent he received for the land, and the tenant on the rent he received for the house. It did not to him appear clear that the amendment proposed was necessary "the word land" having been defined as it was in the preceding Clause.

After some further conversation, the

Council divided:—

Ayes 6.	*Noes* 4.
Mr Peterson	Mr. Cockerell.
Moonshee Ameer Ali	Mr. Hobhouse
Mr. Jennings	The Advocate General
Baboo Ramgopal Ghose.	The President.
Syed Azumoodeen Hossun.	
Mr. Allen.	

The amendment was therefore carried, and the Section as amended was passed.

A verbal amendment to Section 5 was agreed to.

Section 6 was agreed to.

On Section 7 (providing for *ex-officio* Commissioners) being read—

MR. HOBHOUSE said that there appeared to him a little indistinctness with regard to the word "Division." In the 7th line there occurred the words "Division or District," while in the 10th line the Commissioner of the Division was spoken of. As he understood the Section, the meaning of the word in the two lines was not the same. In the 7th line it appeared to mean "Division of a District" and in the 10th a "Revenue Division." He proposed therefore to make the 7th line run "every place within the District or Division of a District" those being terms already known to the law. The Magistrate in charge of the Division of a District was, from being always on the spot, the best person to hold office *ex officio*. He also proposed in line 11 to add the words "or Division of the District."

MR. COCKERELL said that as he understood the Section the word Division in the two lines had exactly the same meaning, namely, a Revenue Division. He saw no necessity for the amendment.

After some conversation the amendment was withdrawn and the Section agreed to with the omission from the 7th line of the words "within the Division or District."

Sections 8 and 9 were agreed to.

On Section 10 (providing what should constitute the Municipal Fund) being read—

MR. HOBHOUSE pointed out that under the wording of the Section money granted by Government would not go to the Municipal Fund, for the expression "or which may be assigned to them by Government for purposes of Conservancy and improvement" clearly did not apply to money assigned for Police purposes. He thought that those words should be omitted.

THE PRESIDENT thought that the amendment made the Clause more general than it at present was. If it was contemplated by Government to assign any money for Police purposes, it would clearly go to the credit of the Commissioners, and the omission of the words proposed to be struck out would obviate all confusion on that point.

The words were then struck out, and the Section was agreed to as amended.

Sections 11 and 12 were passed with verbal amendments.

Sections 13 to 22 were agreed to.

On Section 23, fixing the maximum rate, being read—

MR COCKERELL moved to change the maximum from 7½ per cent. to 8 per cent, and to insert words fixing a minimum limit of 5 per cent.

BABOO RAMGOPAUL GHOSE thought a minimum limit totally unnecessary. The rate would be in proportion to the requirements of the place, and the Municipal Commissioners would take care to obtain the funds they required.

The Motion was negatived.

THE ADVOCATE-GENERAL proposed to move the exemption from the rate of all Government buildings.

THE PRESIDENT stated that in Calcutta there was no exemption in favor of Government buildings, with the exception of the Fort.

SYED AZUMOODEEN HOSSUN moved that the exemption contained in the next Section, as to arable lands and lands used for pasturage, be transposed to this Section, and that the following exemption be included in it:—

"churches, mosques, and temples, and lands

the produce of which is exclusively applied to religious or charitable purposes."

THE ADVOCATE GENERAL objected to the amendment in so far as it exempted lands devoted to religious purposes. He thought that in many cases the produce of lands ostensibly devoted to religious purposes was in reality used for the support of priests and other such people: he therefore saw no reason why such land should be exempted from the rate, and would substitute the following for the amendment proposed, following closely the exemptions made in the Calcutta Act, viz:—"buildings used exclusively as places of public worship."

The original motion having been negatived, the Advocate General's amendment was agreed to, and the Section as amended was passed.

Section 24 was passed after a verbal amendment.

Sections 25, 26, and 27 were agreed to.

Section 28 was passed with a slight amendment.

Sections 29, 30, and 31 were agreed to.

On Section 32 being read—

MR. HOBHOUSE said that it ought to be brought to the notice of the Council that by Act XII of 1858 certain carriages and horses were exempted from the rate, as for instance, carriages and horses the property of the Government.

THE PRESIDENT suggested that if there were to be any exemptions, the proviso had better be passed upon the exemption in the Calcutta Act.

THE ADVOCATE-GENERAL then moved the addition to the Section of the following Proviso.—

"Provided that this Section shall not apply to, or include, gun-carriages, or ordnance carts or wagons; cavalry horses or horses of the mounted police, horses belonging to officers doing regimental duty, at the rate of one horse for each officer, vehicles and horses belonging to Government vehicles and horses kept for sale, and not used for any other purpose, if kept by *bonâ fide* dealers."

MR. COCKERELL opposed the amendment. He thought that, if Government buildings were not exempted, no exemption in favour of Government should be made under that Section.

The amendment was carried, and the Section as amended was then passed.

Sections 33 to 41 were agreed to.

On Section 42 being read—

THE ADVOCATE-GENERAL objected to the latter part of the Section which provided that, in the event of an assessment not being paid, the property assessed might be sold. It was going rather a long way to say that for non payment of an assessment of 7½ per cent a man's house could be sold. Such a provision was hardly necessary for the collection of the tax, and he should propose its omission.

MR. HOBHOUSE said that the provision had been introduced to meet the case of persons who, owing the assessment, left their houses and went elsewhere.

BABOO RAMGOPAUL GHOSE also considered it an extreme measure to sell perhaps a man's dwelling house for a small arrear of assessment.

MR. COCKERELL had no objection to the insertion of the proviso with the addition of the words "when no moveable property of the person assessed can be found."

MR. PETERSON would support the motion of the Advocate General. For his own part he thought it would be better to abandon the assessment than to collect it in such a manner.

THE ADVOCATE GENERAL'S amendment being put to the vote, the Council divided.—

Ayes 6.	*Noes* 4.
Mr Peterson.	Mr Jennings.
Moonshee Ameer Ali.	Mr. Cockerell.
Baboo Ramgopal Ghose	Mr Hobhouse.
Syed Azumooddeen Hossain.	The President.
Mr. Allen	
The Advocate-General	

So the Motion was carried, and the Section as amended was passed.

Sections 43 and 44 were agreed to.

Section 45 was, on the motion of Mr Cockerell, struck out.

Section 46 relating to the service of

notices was also struck out, with a view to the insertion, towards the end of the Bill, of a Section on the subject.

Sections 47 to 61 were agreed to.

MR. HOBHOUSE moved the insertion of a new Section after Section 61. He said that under the Conservancy Act for Calcutta passed in 1856, all buildings erected or renewed in or near any public thoroughfare after the passing of that Act, were forbidden to be made with their roofing and outer walls of grass, mats, or other inflammable materials; and a period of two years was given within which all existing buildings of that description were required to be removed. He did not think that such a provision would be applicable to all places in the Mofussil to which the Act might be extended; but in such places as Howrah, Bhowanipore, Patna, and Dacca such an enactment would be extremely desirable. He observed from a correspondence which had been laid before the Select Committee that in 1858 there were upwards of thirteen hundred huts destroyed by fire in Calcutta; but in 1861, by which time all the inflammable materials had been replaced, only eleven houses were burnt. In Bhowanipore, very lately, about one thousand houses were destroyed in a single day, and no less than nine lives were lost. That was a wealthy place, very many of the pleaders of the High Court having their residences there. Such a provision would not only afford protection to property, but act as a prevention against crime. It was notorious that the great majority of fires was the work of incendiaries—of *ghurramees*, who were paid to rebuild the huts. The form in which he had drawn the Section would prevent its being applied to places to which it ought not to be applied, as every bye-law must first receive the sanction of the Government. With these remarks he moved the introduction of the following Section:—

"It shall be lawful for the Municipal Commissioners by a bye-law, to direct that the external roofs and walls of huts or other buildings about to be erected or renewed in or near any public thoroughfare, shall not be made of grass, leavee, mats, or other such inflammable materials."

The question being put to the vote, the Council divided:—

Ayes 9	*No* 1.
Mr. Peterson.	Mr. Cockerell.
Moonshee Ameer Ali.	
Mr. Jennings.	
Baboo Ramgopal Ghose.	
Syed Azumoodeen Hussen.	
Mr. Hobhouse.	
Mr. Allen.	
The Advocate-General.	
The President.	

So the Section was carried.

Section 62 required the owner or occupier of a house in a ruinous or dangerous state to take down, secure, or repair it.

MR. COCKERELL thought the occupier should not be called upon to take down or repair such houses, and therefore moved the omission of the words "or occupier."

THE ADVOCATE-GENERAL thought the occupier should be made liable, or else he would not trouble himself to give notice to the owner.

The Council divided:—

Ayes 4.	*Noes* 6.
Moonshee Ameer Ali.	Mr. Peterson.
Baboo Ramgopal Ghose.	Mr. Jennings
Mr. Cockerell.	Syed Azumoodeen Hossun.
Mr Allen.	Mr Hobhouse.
	The Advocate-General.
	The President.

So the Motion was negatived, and the Section was passed as it stood.

Sections 63 to 69 were agreed to.

Section 70 was passed after a verbal amendment.

Sections 71 and 72 were agreed to.

On Section 73 (providing a penalty of fifty Rupees for not lighting deposits of building materials or excavations, and a daily fine of fifty Rupees for a continuance) being read—

BABOO RAMGOPAUL GHOSE moved that the continuing fine be reduced to twenty Rupees.

The amendment was opposed by Mr. Hobhouse and Mr. Peterson, and negatived, and the Section was passed after a verbal amendment; so also was Section 74.

Sections 75, 76, and 77 were agreed to.

On the Motion of Mr. Cockerell, Section 81 was transposed, so as to stand after Section 77.

On the Motion of the Advocate-General, the following Section was then introduced:—

"Every notice or summons under any of the preceding Sections of this Act, or under any bye-law, may be served personally upon the person to whom the same is addressed, or may be served by leaving the same at his usual or last known place of abode, with some adult male member or servant of his family, or, if it cannot be so served, may be put up on some conspicuous part of such place of abode. If the notice or summons relates to any house, building, or land, and the place of abode of the owner is unknown, the same shall be deemed to be duly served if put up on some conspicuous part of the house, building, or land, to which the same relates."

On the Motion of Mr Cockerell Sections 82 and 83 were transposed, so as to stand after the above Section

Section 78 was passed with verbal amendments

Sections 79, 80, 84, and 85 were agreed to.

MR. PETERSON then said that he thought there was an omission in the Bill. All public thoroughfares should be vested in the Commissioners If that were not done, the powers given to them in the Act would be a nullity—for instance, they could not break up a street for the purpose of making a drain through it

MR. HOBHOUSE and MR COCKERELL thought that there might be a difficulty in vesting streets in the Commissioners. Many imperial roads, such as the Grand Trunk Road, might pass through a Town, and they hardly thought a portion of such a road could be made over to the Commissioners. The question should be postponed for further consideration

THE PRESIDENT did not think there could be any difficulty. There could be no doubt that wherever a Municipality was introduced, all the roads and drains in the place must be put under their charge. Previous to the formation of a Municipality in Calcutta, the roads in the Town were under the control of the Government; but as soon as a Municipality was created, all the roads (except those in the Maidan, which, for a special reason, were retained under the control of the Government) were made over to the Town. He could see no harm in even making over such portions of imperial roads that passed through stations where there were Municipalities. If such were done, the only change that would take place in their management would be that the Officers of the Public Works Department would have to repair those portions of the roads with reference to the wishes of the Commissioners, and he thought that would rather be an advantage than otherwise

The following Section was then introduced after Section 9 —

"All public thoroughfares in any place to which this Act shall be extended (not being the property and kept under the control of the Government) existing at the time this Act comes into operation, or which shall afterwards be made and the pavements, stones, and other materials, thereof, and also all erections, materials, implements, and other things provided for such thoroughfares, shall vest in and belong to the Municipal Commissioners."

In Schedule A. (rate of Tax on carriages and horses), Moonshee Ameer Ali moved the insertion of the following words: in the Mofussil, he said, elephants were used very much for the same purposes as horses —

"For every elephant, Rupees 6 per quarter."

The question being put, the Council divided :—

Ayes 7.	*Noes* 3
Mr Peterson	Baboo Ramgopal Ghose.
Moonshee Ameer Ali	Mr. Cockerell.
Mr. Jennings	Mr Allen
Syed Azum oo deen Hossain.	
Mr Hobhouse.	
The Advocate-General	
The President.	

So the Motion was carried, and the Schedule as amended was passed

Forms A, B, C, the table of fees for distraints, form D, and the Preamble and Title, were agreed to.

The Council was then adjourned to Saturday the 27th instant.

Saturday, February 27, 1864.

PRESENT:

His Honor the Lieut.-Governor of Bengal, *Presiding*

T. H. Cowie, Esq., *Advocate-General*,	Baboo Ramgopal Ghose,
W. J. Allen, Esq.,	F. Jennings, Esq.,
C. K. Hobhouse, Esq.,	J. B. Barry, Esq.,
F. R. Cockerell, Esq.,	Moonshee Ameer Ali Khan Bahadoor, and
Syed Azumoodeen Hossun Khan Bahadoor,	Rajah Sutt Sharn Ghosal.

DISTRICT MUNICIPAL IMPROVEMENT

MR. COCKERELL moved that the Bill to provide for the appointment of Municipal Commissioners in Towns and other places in the Provinces under the control of the Lieutenant-Governor of Bengal, and to make better provision for the conservancy, improvement, and watching thereof, and for the levying of rates and taxes therein, be further considered in order to the settlement of the Clauses of the Bill.

The motion was agreed to.

In Section 2 -

MR. HOBHOUSE moved an amendment in the definition of the word "Magistrate." It was defined as "any person lawfully exercising the powers of a Magistrate." He proposed to omit the word "lawfully" and to insert after "exercising" the words "all or any of."

The amendment was agreed to.

THE ADVOCATE-GENERAL moved the introduction, into this Section, of an interpretation of the word "highway." The Council would observe that public "thoroughfares" only were vested in the Commissioners by Section 10. He proposed to substitute the word "highway" for "thoroughfare" throughout the Bill, and to introduce the following interpretation of the word "highway":—

"The word 'highway' shall mean any road, street, square, court, alley, or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public bridge or causeway."

The motion was agreed to.

THE ADVOCATE-GENERAL pointed out that by the provisio in the definition of the word "owner," no person receiving the rent of land as agent or trustee for another person would be liable to "do anything by this Act required to be done by the owner of such land," unless he had sufficient funds of the owner to pay for the same. Whether, however, he had sufficient funds of the actual owner or not, there were certain duties imposed upon him by the Conservancy Clauses of the Bill. He therefore moved that the words "pay any assessment made under this Act" be substituted for the words above quoted.

The Motion was agreed to and the Section as amended was passed.

BABOO RAMGOPAL GHOSE proposed to add Section IV, a proviso to this effect —

"Provided that this Act shall not be extended to any place wherein there are not at least five hundred resident householders."

Under the present Municipal law for Mofussil Towns and Stations, the rule was, that if the Inhabitants of their own accord desired the introduction of a Municipal system, their wish could be granted. But this Act could be introduced any where at the pleasure of the Government. This in his opinion was going to the opposite extreme, and he would therefore restrict the application of this Act as completely as possible to the larger and more flourishing places. The amendment proposed would, he thought, tend to restrict the application of the Act in a very desirable way, and allay the anxiety which existed upon the subject.

MR. COCKERELL did not see on what principle the amendment was

based. It did not draw that distinction between trading and agricultural districts which it had been attempted to establish in carrying out the provisions of Act XX of 1856. Not seeing that any certainty would be attained by the amendment, he should oppose it.

THE ADVOCATE-GENERAL did not think that this amendment would effect the object contemplated. The Executive Government might still, by merely extending the union over places inhabited by 500 persons without reference to space, apply the law to thinly populated places.

MR HOBHOUSE agreed with the Advocate-General as to the failure of the proposed amendment in attaining the object contemplated, though he did not object to the principle with regard to which it had been proposed. The nature of the taxation would prevent the extension of the Bill to thinly populated places.

MOONSHEE AMEER ALI thought that the amendment proposed was necessary, and that the operation of the Act should be restricted to such villages only as had five hundred houses of residents. The law should be clear on this point.

The Council then divided on the amendment:

Ayes, 5.	*Noes*, 6.
Rajah Sutt Sharn Ghosaul	Mr Barry
Moonshee Ameer Ali	Mr. Jenness
Baboo Rungopaul Ghose	Mr Cockerell
Syed Azumoodeen Hossun	Mr Hobhouse
Mr. Allen.	The Advocate-General
	The President

So the Motion was negatived.

A verbal amendment having been made in Section 10, the following Section was then introduced on the motion of the Advocate General:—

"It shall be lawful for the Municipal Commissioners to agree with the person or persons in whom the property in any highway is vested, to take over the property therein, and after such agreement to declare by notice in writing put up in any part of such highway that the same has become a public highway. Thereupon such highway shall vest in the Municipal Commissioner and shall thenceforth be repaired and kept up out of the Municipal Fund."

The following Section was introduced after Section 12 on the motion of Mr. Hobhouse:—

"When the Municipal Commissioners may be unable to agree with the owners of any land for the purchase thereof, the Lieutenant-Governor of Bengal may, upon the representation of the Commissioners, and after such enquiry as may be thought proper, declare that the land is needed for a public purpose, and may order proceedings for obtaining possession of the same for Government and for determining the compensation to be paid to the parties interested, according to any law now or hereafter to be in force for the acquisition of land for public purposes. On payment by the Commissioners of the compensation awarded, such land shall vest in them for the purposes of this Act."

MR. COCKERELL moved that the words "or applied solely to charitable purposes," be added after the word worship,' in the last line of Section 24. The object of this amendment was to exempt almshouses and charitable dispensaries. They were to be found in almost every district, and it would be hard to make them pay the assessment, their funds in many cases being very low.

THE ADVOCATE GENERAL said that the confining the exemption to buildings did not remove his objection, expressed when the exemption of lands devoted to charitable objects had been moved.

MR. HOBHOUSE was under the impression that the Council had already refused to accept the principle of the amendment now brought forward. The term "charitable purposes' was in his opinion too wide.

MR. COCKERELL instanced almshouses and dispensaries, the exemption was intended to apply to buildings of that nature.

THE PRESIDENT opposed the amendment. In his opinion the expression "applied solely to charitable purposes" would include many buildings which it would not be desirable to exclude from taxation. There were many rich endowments

which would, if the amendment were carried, be exempted from assessment. Another objection was this, that the Council would be attempting a refinement which had not been tried in reference to Calcutta, where there were buildings, devoted to charitable purposes, paying a higher rate of assessment than would be imposed by this Bill.

The Council then divided on the amendment.

Ayes 6.	*Noes* 5
Rajah Sutt Sharn Ghosaul.	Mr Barry
Moonshee Ameer Ali	Mr. Jennings
Boboo Ramgopal Ghose	Mr. Hobhouse.
Syed Azumoodeen Hossun	The Advocate-General.
Mr. Cockerell.	The President.
Mr. Allen.	

So the Motion was carried, and the Section as amended was passed

Verbal amendments were made in a few other Sections of the Bill

MR COCKERELL then moved that the Bill be passed

The Motion was agreed to

The Council was adjourned to Saturday, the 12th March.

Saturday, March 12, 1864.

PRESENT

His Honor the Lieutenant-Governor of Bengal, *Presiding*

T. H Cowie, Esq., *Advocate-General*,	F Jennings, Esq
W. J Allen, Esq.,	J. B Barry, Esq.,
C. P. Hobhouse, Esq.,	Moonshee Ameer Ali Khan Bahadoor.
F. R. Cockerell, Esq.,	Rajah Sutt Sharn Ghosaul
Syed Azumoodeen Hossun Khan Bahadoor,	and
Baboo Ramgopal Ghose.	A T Peterson, Esq

INSPECTION OF STEAM BOILERS, &c

MR HOBHOUSE moved for leave to bring in a Bill to provide for the periodical inspection of Steam Boilers and Machinery worked by steam. The circumstances which had given rise to a desire on the part of the Government to introduce the present Bill, he would shortly state. It would be in the recollection of the Council that, in December last, a boiler explosion took place in the premises of the Great Eastern Hotel Company, by which no less than thirteen persons lost their lives. An Inquest was held, and the Jury made a presentment to the Coroner, that the cause of the accident was that the boiler was not in a proper state of repair; and the Coroner, in reporting the circumstances of the case to the Government, stated his opinion, that certain persons in charge of the boiler had been guilty of great neglect in looking after the repairs. The Commissioner of Police also informed the Government, that he had immediately afterwards repaired to the scene of the accident, and in his opinion it was only through the accidental circumstance of the explosion having fallen outwards instead of towards the interior that a much greater loss of life did not occur. There was at present a great deal of Steam Machinery in Calcutta, and there could be no doubt that a great deal more would in time be brought into use for various purposes. Now although the Criminal Law affixed penalties for the rash and negligent use of Machinery and for rash and negligent acts endangering life and safety and inflicting injury, there was no provision under which boilers and Steam Machinery could be inspected by Officers of Government. It had been considered expedient that Inspectors should be appointed, whose duty it should be to see that all Steam Machinery should be kept in such a state of repair as to preclude the probability of similar occurrences By an Act of the Bengal Council of 1862, steam vessels had been placed under the inspection of properly appointed persons, and it was proposed by the present Bill to place Steam Machinery on shore under similar inspection conducted by persons appointed by Government, whose duty it would be to inspect all Steam Machinery and grant certificates to last for a certain time, and people would be at liberty to use their machinery during the period to be fixed

The President

in the certificate, and at the close of the term they would have to get the certificate renewed. Such provisions appeared to him to be sufficient to meet the requirements of the case, and without further taking up the time of the Council he would move for leave to introduce the Bill.

The Motion was agreed to.

MANUFACTURE AND TRANSPORT OF SALT.

MR ALLEN moved that the Report of the Select Committee on the Bill to amend and consolidate the laws relating to the manufacture, possession, transport, and sale of Salt in the Provinces under the control of the Lieutenant-Governor of Bengal be taken into consideration in order to the settlement of the Clauses of the Bill, and that the Clauses be considered for settlement in the form recommended by the Select Committee. In doing so he stated that the Select Committee had made a few alterations in the Bill as read in Council. The defect in Act XIII of 1849, which gave no power to the Calcutta Magistrates to interfere with salt in store under *rowannah*, however much in excess of the quantity specified in the document, had been remedied by Section 16 of the amended Bill, which rendered it unlawful to possess as well as transport a greater quantity of salt than was specified in the *rowannah*, and declared that the excess as well as the quantity specified in the *rowannah* should be confiscated. With regard to a communication from the British Indian Association which had been laid before the Select Committee, it had been found impossible at the present time to do away entirely with the provision of the existing law, which they complained of, relating to the responsibility of zemindars in reference to illegal salt works on their estates. The provisions of Sections 32 and 33 of Regulation X of 1819 and of Section 27 of Act XXIX of 1838 had, however, been very much modified by Section 7 as it now stood, and, under it, the convicting officer must be satisfied that the landowner or tenant had guilty knowledge of the illicit manufacture. He hoped, therefore, that the objections of the British Indian Association had in some degree been removed. Hereafter no absentee proprietor or tenant would be amenable to the penal provision of Section 7. By Section 9 of the amended Bill every licensed manufacturer was required to have a proper warehouse for the purpose of depositing and securing in it the salt he had manufactured, and by Section 13 the duty upon salt must be paid before a *rowannah* for its removal from the warehouse could be granted. An Honorable Member had pointed out that under the Bill licenses to manufacture salt could only be granted by the Board of Revenue, and had suggested that in many cases it would be very convenient if the Mofussil authorities were entrusted with authority to grant them. The Committee had been of opinion that this was unnecessary, but the Council could express its opinion upon such an amendment if the Honorable Member thought proper to move it. With these remarks he moved that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill.

The Motion was agreed to.

Sections 1 and 2 were passed with verbal amendments.

Section 3 was agreed to.

Section 4 was passed with a verbal amendment.

Section 5 was agreed to.

On Section 6 being read—

SYED AZUMOODEEN HOSSUN moved an amendment, empowering the Board of Revenue to authorize the Mofussil authorities to grant licenses to manufature salt as it might tend to the greater convenience of salt manufacturers to obtain licenses on the spot.

MR ALLEN thought that it was a very easy thing to depute a Mookhtear or agent to apply for and obtain a license from the Board of Revenue.

THE PRESIDENT had a very serious objection to the amendment. Considering the amount of revenue at

Section 30 was passed with a verbal amendment.

The following new Section was introduced on the Motion of Mr. Hobhouse:—

"Any Police Officer who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for contraband salt, or who shall vexatiously or unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty, shall be liable to a fine not exceeding five hundred rupees, or to simple imprisonment for a term not exceeding six months."

MR. HOBHOUSE also proposed to insert a Section imposing upon the village police the duty of reporting all cases of illicit manufacture or possession of salt coming to their knowledge.

THE ADVOCATE-GENERAL thought the Section objectionable as tending to raise confusion in the Bill. It was objectionable in point of principle that there should be a specific provision to punish Police Officers for breach of duty.

MR. ALLEN enquired if there would be any objection to define the term "Police Officer" so as to include Village Police, and leave the rest to the general law.

The following definition was then inserted in Section 2:—

"The words 'Police Officers' shall include all Village Police.

The following Section was inserted, on the Motion of Mr. Hobhouse, before Section 31:—

"Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to simple imprisonment for a period not exceeding six months, and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second."

Section 31 was agreed to.

Section 32 was passed with the addition of the following words, inserted on the motion of the Advocate-General:—

"The fine or any part thereof which shall remain unpaid may be levied at any time within six years after the passing of the sentence, and the death of the offender shall not discharge from liability any property which would after his death be legally liable for his debts."

Sections 33, 34, and 35 were agreed to.

On the Motion of Mr. Allen, the following Section was substituted for Section 36:—

"The Board of Revenue may appropriate the proceeds of any seizure or any portion of such proceeds to form a fund for rewarding the police (of such grades as may be determined by the Board of Revenue) and informers, and for compensating persons subjected to annoyance or injury by any proceedings under this Act, and any fine paid under this Act may be applied to the same purpose."

Section 37 was agreed to.

Section 38 was passed with a verbal amendment.

Section 39 was agreed to.

On the Motion of Mr. Allen the consideration of the Schedule was postponed.

The preamble and title were agreed to.

The following words were then added to Section 4, on the motion of the Advocate-General:

"The continuing, after conviction and sentence, of the offence mentioned in the introductory part of this Section, shall be considered as amounting to the commission of the offence, and shall be punishable in the same way as such original offence."

MR. HOBHOUSE said that he would take the opportunity of explaining, with reference to the communication of the British Indian Association, that it had not been considered necessary to make any provision for the punishment of informers, as ample provision for the purpose would be found in Section 182 of the Penal Code.

The Council was then adjourned to Saturday, the 19th Instant.

Saturday, March 19, 1864.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H Cowie, Esq., *Advocate General,*
W. J. Allen, Esq.,
C. P. Hobhouse, Esq.,
F. R. Cockerell, Esq,
Syed Azumoodeen Hossun Khan Bahadoor,
F. Jennings, Esq,
J. B. Barry, Esq,
Moonshee Ameer Ali Khan Bahadoor,
Rajah Sutt Shurn Ghosaul
and
A. T T Peterson, Esq.

INSPECTION OF STEAM BOILERS, &c

MR. HOBHOUSE moved that the Bill to provide for the periodical inspection of Steam Boilers and Machinery worked by Steam in the Town and Suburbs of Calcutta, be read in Council He had already explained the object of the measure and the circumstances which had given rise to it, and he would therefore now confine himself to stating briefly the provisions of the Bill. It provided for the appointment of Inspectors by Government, whose duty it would be to hold periodical inspections of all Boilers and Steam Machinery used in the Town and Suburbs of Calcutta Owners of such Boilers and Machinery would have to give notice of their intention to use them, and upon such notice being received, an Inspector would proceed to inspect, and if he found the Boiler and Machinery in safe working order, he would grant a certificate for a certain time. When that time expired, it would be necessary that another inspection should be held, and that the certificate should be renewed if the owner of the Machinery desired to continue to use it. It was also provided by the Bill that if it should appear to the Lieutenant-Governor that any inspection had not been properly conducted or that the Boiler or Machinery inspected had become out of order since the last inspection, he would have the power to revoke the certificate in order to compel a second inspection. He would also have the power of fixing such fees for inspection as he might think fit. The Bill contained a penalty not exceeding five hundred Rupees for using a Boiler or Machinery worked by Steam without a certificate.

MR. PETERSON thought that in this country such a Bill might be required, and as regarded the inspection of Steam Boilers he had no objection to it In England the owners of Steam power had created a Society for their protection and that of the public, and the Legislature at home had not been called upon to interfere. He believed that through the agency of that society no less than 700 Boilers were inspected every fortnight in Manchester alone. Their own interest would generally lead persons to look to the safety of their Boilers, and in England Legislative interference was unnecessary. In this country, however, the case might be different, and to that portion of the Bill which related to the inspection of Boilers he had no objection Machinery, however, stood on quite a different footing It was most difficult to preserve patent rights, and many owners of Machinery relied entirely upon secrecy to secure those rights It would be a most mischievous principle, as tending to discourage private enterprise, to allow Inspectors to inspect all Steam Machinery; nor was there the least necessity for it, as it was not from the Machinery, but from the Boiler, that any danger could arise, except, indeed, in another way, in such cases as were provided for by the Factory Act, namely, accidents from the dress or person of those employed being caught in the Machinery. He trusted, therefore, that the Council would not extend the provisions of the Bill beyond Steam Boilers. With regard to the power given to the Lieutenant-Governor to revoke a certificate, it would be better, he thought, to provide that he might, in cases of suspicion, order another survey.

MR. HOBHOUSE understood the objection of the Honorable Member to be that the inspection of Steam Machinery would be an interference, with the private enterprise of inven-

tors. Now he supposed that inventions might exist with regard to Boilers as well as Machinery, so that the argument of his learned friend would apply equally to them. He could understand how Machinery, from not being in a proper condition, might occasion as much mischief as might result from a Boiler explosion. Owners would only be bound to afford every reasonable opportunity to Inspectors to see that their Mchinery was safe; but they need not explain how any particular part of it worked. Again, under Section 6 the Lieutenant-Governor or any person authorized by him might revoke a certificate. So that no doubt some properly qualified person would be appointed.

MR. BARRY quite concurred with the view expressed by the Honorable and learned Member, that such an unrestricted inspection of Machinery as the Bill contemplated would tend to render it almost impossible to preserve any patent right. He remembered visiting works in Leeds, where one room was pointed out to him in which a Machine had been worked for two years, and no stranger had ever been allowed to enter that room. He instanced that, as it seemed to show the importance which owners of Machinery attached to any kind of survey. A person might be engaged in a series of experiments, and under a system of public inspection his principle might be discovered before the experiments were concluded, and before he could possibly protect his invention.

THE ADVOCATE-GENERAL without expressing any opinion as to the point raised by his Honorable and learned friend as to whether the Bill should be limited to the inspection of Steam Boilers or extended to Steam Machinery, (for that would be quite within the power of the Select Committee to settle,) would only suggest that the matter would be more conveniently discussed in the Select Committee.

MR. PETERSON agreed with what had been said by the Advocate-General, but he thought it advisable that such views as he entertained should be stated in the Council, because then they would be more likely to meet with full discussion in Committee. After a Committee had reported there was a sort of hesitation on the part of the Council to alter any Bill as amended by them, and therefore it was advisable that Members should express their opinion at the reading of the Bill.

The Motion was then agreed to, and the Bill was referred to a Select Committee, consisting of the Advocate-General, Syed Azumooddeen Hossein, Mr. Barry, Mr. Peterson, and the Mover, with instructions to report in one week.

MANUFACTURE AND TRANSPORT OF SALT.

MR. ALLEN moved that the Bill to amend and consolidate the laws relating to the Manufacture, possession, transport and sale of Salt, in the Provinces under the control of the Lieutenant-Governor of Bengal, be further considered in order to the settlement of the Clauses of the Bill.

The Motion was agreed to, and two or three verbal amendments having been introduced, the Bill on the motion of Mr Allen was passed.

REGULATION OF TOLLS ON CANALS.

MR ALLEN moved that the Advocate-General, Mr. Hobhouse, Moonshee Ameer Ali, and Mr Peterson be added to the Select Committee on the Bill to amend the law relating to the collection of tolls on boats and vessels passing through certain canals, khaals, and nullahs within the tidal limits of the Bay of Bengal.

MR. PETERSON wished to know if this was the Bill which had been introduced into the Council some time ago, as he believed it was a Bill applicable to existing canals as well as to those which might be constructed in future. He might say that he thought it would be advisable not to fix the rates by a Schedule, but to leave to the Lieutenant-Governor the power of fixing such rates as to him might seem fit, regard being had to the circumstances of each canal. At

present in Tolly's Nullah and the Circular Canal, the toll was just as heavy for a boat which only went a few yards as one which went a hundred miles, and that was felt a great hardship upon persons who used only a short portion of the canal.

MR. ALLEN agreed that it would be better to leave the power of fixing the tolls to the Lieutenant-Governor.

MR. HOBHOUSE believed that the present tolls were not collected under a Schedule, but were fixed by the Executive.

MR. PETERSON said that that was so, but practically, the power was of little use, as a limit had been fixed.

THE PRESIDENT supposed there was no difficulty in the matter if the Council thought fit to leave to the Government the power of fixing tolls within certain limits. In regard to the particular instance which had been referred to, he understood it to be within the power of the Executive Government to make alterations in the toll within certain limits An alteration of the present practice of collection had been considered on more than one occasion, but the great difficulty that was felt by the officers charged with collecting the tolls, was to distinguish between boats going a long distance and those going a short way. He was ready to say that if those persons interested in the matter would point out a mode to obviate the difficulty he would gladly propose a proportionate reduction of the toll

The Motion was agreed to

The Council was then adjourned to Saturday, the 2nd April

Saturday, April 2, 1864.

PRESENT:

His Honor the Lieut.-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General,*
W. J. Allen, Esq.,
C. P. Hobhouse, Esq.,
F. R Cockerell, Esq.,
Syud Azumoodeen Hossun Khan Bahadoor,
BabooRamgopalGhose
F. Jennings, Esq.,
Moonshee Ameer Ali Khan Bahadoor,
Rajah Sutt Shurn Ghosaul,
and
A. T. T. Peterson, Esq.

ALTERATION OF ZILLAH LIMITS.

MR. HOBHOUSE moved for leave to bring in a Bill to amend Act XXI of 1836. That Act was one which empowered the Governor-General in Council, by an order in Council, to alter the boundaries of existing Zillahs, and to establish new Zillahs. As regarded the creation of new Zillahs, the present Bill did not alter the existing law; its object was simply to give the Lieutenant-Governor the power of altering the boundaries of such Zillahs as were already in existence. The measure was entirely of an executive character, and as the previous sanction of the Governor-General to the introduction into the Council of such a Bill had also been obtained, it would not be necessary for the Council to bestow any length of time upon its consideration. The Bill consisted of only one Clause.

The Motion was agreed to.

On the application of Mr. Hobhouse, the President declared the Rules for the Conduct of Business suspended

The Bill was then read in Council, and a verbal amendment having been made, was passed

INSPECTION OF STEAM BOILERS.

MR. HOBHOUSE moved that the Report of the Select Committee on the Bill to provide for the periodical inspection of Steam Boilers and Machinery worked by Steam in the Town and Suburbs of Calcutta, be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee. He had not many remarks to make upon the Bill, because very few alterations had been made in it by the Select Committee. The only material alteration had been to substitute the words "Prime Mover" for the more general words "Machinery worked by Steam." When the measure was first discussed, his honorable and learned friend (Mr. Peterson) had objected to those general words as being calculated to

prove vexatious to owners of machinery, and as applying to parts of machinery which could not be dangerous to life or property. He at the time did not concur with the view taken by his learned friend, but he had since found reason to alter his view of the matter, and the Committee, aided by the practical knowledge of two of its Members, had thought it expedient to confine the operation of the Act to Steam Boilers and Prime Movers. Another alteration which had been made was with reference to the revocation of certificates. In the Bill as it originally stood, there was a provision for the revocation of certificates, but there was none for granting new ones in such cases. It was now, therefore, provided that in cases where it might appear that a certificate had been revoked without sufficient grounds, a new one should be given without the owner being called upon to pay any fee. In all cases of revocation, new certificates would be issued subject to the provisions made for the issuing of original certificates, with the exception he had before mentioned.

The Motion was agreed to.

Section 1, the Interpretation Clause, was agreed to after verbal amendments had been made, on the Motion of Mr Peterson, in the interpretation of the words "Boiler" and "Prime Mover."

Sections 2 and 3 were agreed to.

Section 4 provided that within 48 hours of receiving notice from the owner, an Inspector was bound to make an inspection.

MR. JENNINGS suggested that it would be advisable to provide a penalty upon any Inspector who failed to make an inspection within the period prescribed by the Act

MR HOBHOUSE pointed out that Section 166 of the Penal Code would fully meet such a case. That Section provided that—

"Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both."

That appeared to him to meet the object that the Honorable Member had in view.

MR. PETERSON considered that the suggestion of the Honorable Member was worthy of consideration. There could be no doubt that in large establishments, such as the Fort Gloster Mill and similar works, great pecuniary loss would be incurred by the proprietors, if any unnecessary delay occurred in the inspection of their works. The clause quoted by his honorable friend from the Penal Code appeared to him, however, to be sufficient to meet the difficulty.

MR. JENNINGS said that he had felt it advisable that the penalties incurred by Inspectors for delay or neglect of duty should appear on the face of the Bill After the explanation which had been given, he would not, however, move any amendment.

The Section was then agreed to

The remaining Sections of the Bill as well as the Preamble and Title were agreed to with some verbal amendments.

On the motion of the President, the following Section was added to the Bill:

"This Act shall come into operation on such date as the Lieutenant-Governor of Bengal, shall fix by Notification in the Calcutta Gazette"

CANAL TOLLS.

MR HOBHOUSE moved that the Report of the Select Committee on the Bill to amend the law relating to the collection of Tolls on Boats and Vessels passing through certain Canals, Khaals, and Nullahs within the tidal limits of the Bay of Bengal, be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee. As he found that the Bill had been originally introduced into the Council at a time when the majority of members now present were not members of the Council, it would

perhaps be necessary for him to say a few words regarding the original object of the Bill. In certain Districts as in that of Midnapore, Tolls had been formerly collected by the Salt Agents, but those offices having been abolished, there was not at present any one legally authorized to collect Tolls on those Canals. The original object of the Bill was therefore to authorize certain persons to collect Tolls, and also to indemnify those persons who had been collecting Tolls, without having, strictly speaking, legal powers to do so. But in looking into the Bill as introduced, it was found that it contained a Clause for the levy of Tolls on Canals that might hereafter be constructed. The Bill, therefore, seemed to the Select Committee to be neither one thing nor the other—neither a special nor a general law, and they had consequently determined to amend and consolidate the whole law on the subject, which had been done in the Bill as amended In the former Bill the maximum rate of Toll had in every case been fixed: for instance rates of one Rupee and half a Rupee per 100 maunds were fixed on boats laden with different kinds of produce. Those might appear to be very reasonable rates as regarded canals of short extent, but it must be clear that the same rates could not fairly apply to a canal extending from Calcutta to Dacca, considerable progress with which had already been made, or to the still larger Canals which were in contemplation. It appeared therefore very difficult to fix any maximum limit, and it had been thought better not to fix any rate of Toll, but to leave to the Lieutenant-Governor of Bengal the power of fixing Tolls at the rates which to him might seem most fit in each particular case. For these reasons no schedule of rates had been attached to the Bill. There were one or two Clauses in the Bill as amended by the Select Committee to which reference appeared to him to be necessary Section 8 provided for the enforcement of the payment of Tolls. Under the old law collectors of Tolls, who were not perhaps of necessity persons of any great degree of respectability, had power to detain and seize any boat, and after retaining possession of it for ten days, to sell both the boat and the cargo, and after deducting the sum due on account of Tolls, the balance they were required to pay to the owner. It was quite clear that such a system was open to great abuse, and that such large powers ought not to be placed in the hands of such persons. Under the present Bill no power was given to sell the cargo of any vessel, as it was thought that the sale of the boat and its appurtenances would in all cases be sufficient. In this, as well as in the procedure to be observed in the detention and sale of boats, the Committee had followed the provisions of the Kurrattya Act (XXII of 1856), which appeared to be likely to prevent such abuses as might have arisen under the old system. Section 10 gave the Lieutenant-Governor the power of making bye-laws; and by Section 12 he was given power to authorize any person to deepen channels, &c., and to take possession of land as for a public purpose. Although the Bill had been very much altered by the Select Committee, yet as the provisions were substantially taken from the existing laws, it was not thought necessary to republish the Bill

The Motion was then agreed to and the Council proceeded to the consideration of the Clauses of the Bill.

Section 1 was passed after verbal amendments

On Section 2 (the repealing Clause) being read –

MR. HOBHOUSE proposed to insert words giving the Lieutenant Governor of Bengal power, by notification in the Calcutta Gazette, to repeal at different times such of the Regulations and Acts mentioned in the Schedule as he thought proper. As the Section stood power was given to repeal them collectively, but it might be advisable to repeal them separately as circumstances required. It was clear that a repeal of some might be

immediately required, while it might be convenient that, for some time at least, some others should remain in force.

THE ADVOCATE-GENERAL suggested that as there certainly appeared some difficulty in the matter, the consideration of the Section, as of the following Section and of Section 18, should be postponed to the next Meeting

MR. PETERSON said that as he probably would not be present at the next Meeting of the Council, he would make a few observations on a provision in Section 3. By that Section it was provided that it should be lawful for the Lieutenant-Governor of Bengal to render any navigable channel, not being private property, subject to the provisions of the Act. It appeared to him that a proviso with regard to private property might give rise to great inconvenience In the Sunderbunds there were many khaals that might come under the definition of private property, but which, it appeared to him, to be very advisable that Government should have under its control. Any private person by stopping up a khaal which might pass through his land, might seriously impede water communication, more especially in such a district as the Sunderbunds, where, by a short communication being opened in some places, a delay of many hours might be avoided. He would suggest the omission of the words "not being private property."

THE ADVOCATE-GENERAL could not quite concur in the opinion expressed by his learned friend. It appeared to him that if a channel was a navigable channel, by which he understood a channel through which the tidal water flowed, it could not be private property, but must be open to all. The words in the Section appeared to him to apply to artificial channels, which, although made for the interests of the public at large, were in some sort private property, such for instance as those constructed by the East India Irrigation Company and other similar works. In his opinion the words ought not to be expunged from the Section.

MR. HOBHOUSE explained that the object which the framers of the Section had in view was not to interfere with works which were constructed under the public utility Act (XXII of 1863) and which were in fact private property. There was no doubt great force in what had fallen from the honorable and learned gentleman (MR. Peterson), but it was not intended that such khaals as had been referred to should come within the definition of private property.

MR. PETERSON could only say that the subject was of great importance, and it appeared to him that it would be advisable that some provision should be made to prevent persons having grants in the Sunderbunds (parts of which would no doubt in time become cultivated districts) from stopping up natural water-courses which might run through their property.

THE PRESIDENT thought that it did not follow that a khaal passing through a grant of land became the private property of the person to whom such grant was made. It appeared to him that if such khaals were stopped up, the remedy would be, not to introduce any clause in the present Bill, but to take some other measures to prevent private persons closing up public channels of communication. He did not think, either, that the object which the learned gentleman had in view would be gained by following out the suggestion which had fallen from him.

MR. PETERSON, in deference to the opinion which had been expressed, would withdraw his suggestion.

THE PRESIDENT said, he as well as the other Members of the Council were very much indebted to the Honorable and learned Member for the assistance that he had given them while a Member of this Council, and he had no doubt that in the distinguished position which the learned Member was now called upon to occupy, he would, in the discharge of the duties which it involved, afford as much assistance and give as great satisfaction to the

public at large, as he had to the Council.

The consideration of Sections 2, 3, and 18 was then postponed.

Sections 4, 5, and 6 were agreed to.

Section 7 was passed with verbal amendments.

Section 8 was agreed to.

Sections 9 and 10 were passed with verbal amendments.

The consideration of Section 11 was, on a suggestion from Mr. Peterson, postponed.

Section 12 provided that for the purpose of improving, *making*, or keeping open any line of navigation the Lieutenant Governor of Bengal may authorise any person to deepen channels, &c., and to take possession of land as for a public purpose.

THE ADVOCATE GENERAL moved the omission of the word "making" The word appeared to him contrary to the whole scope of the Act The measure was one which professed only to apply to the collection of Tolls, and it appeared to him inconsistent with such an object that power should be given for the construction of any line of navigation All such lines that were subsequently made would come within the provisions of the Bill, and under Act VI of 1857 the executive had full power as regarded the taking of land for works of public utility. He therefore thought that the latter part of the Section which contained a reference to that Act should also be omitted.

MR. PETERSON was strongly of opinion that the word "making" should be retained It was most desirable that the local Government should have the power of opening and making new channels.

MR. ALLEN concurred in the opinion that the power of making any line of navigation was conferred upon the executive by Act VI of 1857.

THE PRESIDENT thought that the scope of the present measure had not been thoroughly understood. There was no doubt that the Government had full power under the Act, to which reference had been made, to make navigable channels and to take up lands for that purpose. As he understood the present Bill, however, it was not to enable Government to make lines of navigation, but to give the Executive the power of authorizing private persons to open such lines, in the same way, in fact, as by special legislation Baboo Prosono Coomar Tagore had been authorized to improve the navigation of the Kurratiya river. The machinery provided by the Public Works Act was very cumbrous, and although applicable to large undertakings in which a large amount of capital was invested, and with regard to which great formalities were necessary, yet it was scarcely applicable to smaller undertakings such as those to which this Section appeared specially to apply. He might mention that a communication had been received from the Commissioner of Chittagong, pointing out that, in numerous instances, the communication in that district might be greatly improved, if zemindars were authorized to open communications between lines already in existence If his recollection served him right, when a question was raised as to a Bill to improve the navigation of the river, the late Mr Ritchie gave an opinion that where land was required by a private Company for public purposes the provisions of the Act to which reference had been made did not apply, and that the only course in such cases was for the Government to cause the land to be taken for itself and then to make it over to the Company. As there appeared to be some doubt upon that subject, he considered that it would be better to retain the words objected to in the Section.

After some further conversation the consideration of the Section was postponed to the next Meeting.

MR. HOBHOUSE moved that Sections 13 and 14 be struck out, and that the following Sections be substituted for them:—

"Any person who may sustain any damage by the act of any person authorised under the last preceding Section may prefer a claim for compensation to the Collector of the District,

and such claim shall be heard and determined in the manner and subject to all the conditions of Sections VII and XII of Act XXXII of 1855 *(relating to embankments)* in so far as the same may be applicable."

"It shall be lawful for the Government of Bengal to appoint any person to be the Supervisor of any line of navigation subject to the provisions of this Act, and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vessel, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary."

"Whenever such Supervisor shall consider that the cutting down and removal of any tree or the removal of any other obstruction is necessary, he may in cases of emergency at once remove the same, and may for that purpose enter on any private property. In cases not of an emergent nature he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time. If the owner or occupier cannot be found, notice may be served by notification to be affixed in some conspicuous place in the nearest village. If the owner or occupier shall not remove the obstruction within the time given in the notice, the Supervisor may proceed to remove it himself, and may for that purpose enter on any private property. Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of Tolls in Section 8 of this Act."

"Whenever in the opinion of such Supervisor the construction of any Bandell or other contrivance for fishing or for any other purpose in any line of navigation is likely to cause obstruction to the free and safe transit of such line of navigation, he may, by a notice in writing to be served on the owner or person in charge of such Bandell or other contrivance, or (if such owner or other person cannot be found) at some conspicuous place to be affixed in the nearest village, forbid the construction of such Bandell or other contrivance."

"Any person, who shall wilfully cause or shall aid in causing any obstruction to any line of navigation or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty Rupees, or with both."

The Motion was agreed to.

The consideration of Section 15 was postponed.

Section 16 was agreed to.

Section 17 (which provided a penalty for unlawful acts done under color of the law) was, on the motion of Mr. Hobhouse, struck out, ample provisions on the subject being contained in the Penal Code.

The Schedule was agreed to after the inclusion of Regulation VIII of 1824 amongst the laws to be repealed; and the consideration of the preamble and title was postponed.

The Council was then adjourned to Saturday, the 9th instant.

Saturday, April 9, 1864.

PRESENT:

His Honor the Lieutenant-Governor of Bengal, *Presiding.*

T. H. Cowie, Esq., *Advocate-General.*	F Jennings, Esq.,
W J. Allen, Esq.,	J B Barry Esq.,
C. P Hobhouse, Esq.,	Moonshee Ameer Ali Khan Bahadoor and
F. R. Cockerell, Esq.,	Rajah Sutt Shurn
Syud Azumoodeen Hossun Khan Bahadoor,	Ghosaul

INSPECTION OF STEAM BOILERS, &c.

MR. HOBHOUSE said that a Motion stood in the List of Business in his name, to move that the Bill to provide for the periodical inspection of Steam Boilers and Prime Movers attached thereto in the Town and Suburbs of Calcutta be further considered in order to the settlement of the Clauses of the Bill. Since the last Meeting he had carefully looked through all the Clauses of the Bill, and they did not appear to him to require any alteration. As the consideration of the Bill had not been postponed with reference to any particular Clause, perhaps it would save the time of the Council if he at once moved that the Bill be passed.

RAJAH SUTT SHURN GHOSAUL considered that it would be very advisable to fix some period for which certificates should be given, say either for three months or six months, or even a year. At present, after the first survey, it was at the option of the Inspector when he should make another, and it appeared to him to be better that the Bill should provide some fixed period for the certificate to

run, as in Act V of 1862 for the survey of Steam Vessels in the Port.

MR. HOBHOUSE said, that it was provided in the Bill that persons who possessed certain Machinery worked by steam should be compelled, before making use of it, to have it surveyed by an Inspector appointed by the Government. The Inspector would then give a certificate for a period to be determined by himself after due inspection. When that period elapsed, the owner could no longer make use of such Machinery without another inspection, and a further certificate, under certain penalties provided by the Act. It appeared to him that these provisions completely attained the object the Honorable Member had in view

THE PRESIDENT said that if the Honorable Member wished to propose an amendment, the proper course would be that the first Motion on the List of Business should be made.

The Motion was put and agreed to

RAJAH SUTT SHURN GHOSAUL moved after the word "certificate" in line 11 of Section 5, to insert the words "for a period not exceeding SIX months"

MR HOBHOUSE said that it must be presumed that the person who would be appointed to inspect would be competent to form an opinion as to how long a Boiler or Prime Mover could be used with safety, and it appeared to him that to fix a limit of SIX months for a certificate to run, which would involve a half-yearly inspection, would be vexatious to owners of Machinery

MR. BARRY felt obliged to oppose the amendment Every one was aware that a good Boiler might not need repair for two or three years, and it would be of the most serious inconvenience in large works to have the Machinery stopped for a half-yearly survey. It appeared to him that the Bill, as it at present stood, provided all that was requisite for securing safety to life and property.

The Motion was put and negatived

MR. HOBHOUSE then moved that the Bill be passed

The Motion was put and agreed to.

CANAL TOLLS.

MR. HOBHOUSE moved that the Bill to amend and consolidate the law relating to the collection of Tolls on Canals and other lines of navigation within the Provinces under the control of the Lieutenant-Governor of Bengal, be further considered in order to the settlement of the Clauses of the Bill.

The Motion was put and agreed to.

THE ADVOCATE-GENERAL said, that the Council might perhaps recollect that the consideration of Sections 2, 3, and 20 had been postponed. It appeared desirable to render the Government competent to extend the operation of this Act, from time to time, as well to existing lines of navigation as to such new lines as might be hereafter constructed. With that object he would move the omission of Sections 2, 3, and 20, and the introduction of the following new Section after Section 1 :—

"It shall be lawful for the Lieutenant-Governor of Bengal from time to time, by notification to that effect published in the Calcutta Gazette, to declare that the provisions of this Act shall apply to any navigable channel specified in such notification, and from and after such publication the provisions of this Act shall apply and be in force as regards such navigable channel, and such of the Regulations and Acts specified in the Schedule to this Act as were applicable to such navigable channel shall thenceforth cease to have any force or effect as respects such channel"

The Motion was put and agreed to.

THE ADVOCATE GENERAL then moved that the following Section be inserted after the above, in lieu of what was now Section 12 of the Bill :—

"It shall be lawful for the Lieutenant-Governor of Bengal from time to time to authorize any person to make and open any navigable channel, or to clear and deepen any navigable channel, and to stop any water-course, or make any tracking path, or do any other act necessary for the making or improvement of any such channel, and any navigable channel made under this Section shall be rendered subject to the provisions of this Act in the manner prescribed in the last preceding Section The Government of Bengal may take possession as for a public purpose, of any land that may be necessary for the execution of

any of the above-mentioned works, under the provisions of Act VI of 1857 for the acquisition of land for public purposes or of any other Act that may now or hereafter be in force for the taking possession of land for public purposes"

The Motion was put and agreed to.

MR HOBHOUSE suggested that Section 13 be omitted, and that a Section enacting substantively the provisions of Section 7 of the Act relating to Embankments, referred to in that Section, be substituted for it, and be placed after Section 3.

THE ADVOCATE-GENERAL quite understood the object of the Honorable Member, but he felt some doubt as to the mode in which he proposed to cary it out. The proposal was to revert to the system of assessing compensation provided in the Embankments' Act XXXII of 1855, but that sysment had not been adopted in the subsequent Act VI of 1857 "for the acquisition of land for public purposes"

THE PRESIDENT said that in his opinion it would be better to omit Section 13 altogether. The Bill at present provided only for cases of damage occasioned by the taking of land for the purpose of making navigable channels It was quite clear that damage might be done to persons by the stopping of water-courses, although they might have no claim in respect of the land taken; nevertheless it scarcely appeared to him to be requisite to provide any special remedy Act VI of 1857 provided, in Section 24, that the compensation to be awarded under that Act might include damage done to adjoining land It would, in his opinion, be sufficient for the bill to enact that compensation should be awarded under Act VI of 1857 at the time of the taking of the land, and it would, he thought, be better to leave persons who suffered consequential damage after the taking of the land to the ordinary remedy of the Civil Courts.

THE ADVOCATE GENERAL expressed his concurrence with the view taking by the President. The remedy should, however, be confined to an action against the private individual, whose act caused injury. He would therefore move the omission of Section 13, and the introduction of the following Section after Section 3:—

"No action or suit shall be brought against the Secretary of State for India in Council or the Government in respect of any injury or damage caused by or resulting from any act done under the last preceding Section"

The Motion was put and agreed to

The postponed Section 11 was passed with verbal amendments

MR. HOBHOUSE moved the addition to Section 17 of the following words:—

"and shall also be liable to pay such sum as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage"

and also the introduction of the following new Section after Section 18 —

"If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act such offence shall be punishable by any Magistrate having jurisdiction over any District or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed and such Magistrate may exercise all the powers of a Magistrate under this Act in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction notwithstanding the offence may not have been committed locally within such limits, and in case any such Magistrate shall exercise the jurisdiction hereby vested in him the offence shall be deemed, for all purposes to have been committed locally within the limits of his jurisdiction"

The Motions were severally put and agreed to.

Some verbal alterations were made in the preamble and Title, after which, on the Motion of Mr. Hobhouse, the Bill was passed

THE PRESIDENT then declared, the Council adjourned *sine die*.

Saturday, November 12, 1864.

PRESENT :

His Honor the Lieutenant-Governor of Bengal,

Presiding.

The Hon'ble Ashley Eden,	Munshi Amir Ali, Khan Bahadur,
E. T. Trevor, Esq.,	and
F. R. Cockerell, Esq.,	Babu Degumber Mitter.
Syed Azumudin Hossun Khan Bahadur,	

MR. EDEN and MR. TREVOR took the usual oaths and their seats in the Council.

BABU DEGUMBER MITTER, having made a solemn declaration of allegiance to Her Majesty, and that he would faithfully fulfil the duties of his office, took his seat in the Council.

JUDGE OF THE 24-PERGUNNAHS.

THE HONORABLE ASHLEY EDEN moved for leave to bring in a Bill to render valid certain acts and proceedings of the Judge of the Court of Session of the Zillah of the 24-Pergunnahs. The measure was rendered necessary in consequence of the alterations of Zillah Boundaries not having been immediately made known to the Judge. Certain orders had been passed by that Court after the transfer of Howrah from its jurisdiction to that of the Hooghly Sessions Court. It was therefore necessary that validity should be given to such orders by an Act of the Legislature.

The Motion was agreed to.

PROTECTION AGAINST FIRE IN PORTS.

THE HONORABLE ASHLEY EDEN, in moving for leave to bring in a Bill to make better provision for the prevention of injury from fire in Ports in the Provinces under the control of the Lieutenant-Governor of Bengal, said it would be in the recollection of the Council that, in consequence of a number of very serious fires breaking out amongst the shipping last year, a Committee was appointed to consider the best means of preventing them in future. In the course of the enquiries of the Committee, it appeared that certain rules were necessary, which could not be passed except under a Legislative enactment, and it was for this purpose that the present Bill had been prepared. By Section VII of Act XXII of 1855, the Government was authorised to make rules for certain purposes connected with the good order and management of the Port, and, among other matters, for the regulation of the use of fires and lights, but this power did not enable Government to deal with what was perhaps the greatest evil to be met, the landing and stowage of Inflammable Oils, neither did it give the Port Officers power to compel the assistance of the crews of vessels in harbour in extinguishing and checking fires. It was proposed, in this law, to empower the Government to make such rules as might be deemed useful for the prevention of injury from fire among shipping without any restriction as to the details of the rules. The Bill provided specially for rules restricting the bringing into Port certain oils of a highly inflammable nature, such as Benzole and Kerosine and, in this matter, resembled the Statute 25 and 26 Vic., C. 66 (An Act for the safe keeping of Petroleum). In the Port of Calcutta, in such matters as attempts to extinguish fire or to clear a burning ship from the neighbourhood of others, it had been found insufficient to rely on the voluntary assistance of seamen from surrounding vessels. The Bill accordingly empowered the Conservator to call for assistance from the crew of any British ship in Port. The Bill contained a Clause requiring the owner of tugs plying for hire to supply them with force pumps and hose, a provision somewhat resembling Section XXVIII of Act XXII of 1855, which required vessels of more than 200 tons burden to be provided with force pumps "for the purpose of extinguishing any fire that might occur on board." In the case of tugs plying for hire in the Port, it seemed reasonable that this provision should be

extended, and that they should, under the orders of the Conservator, assist in extinguishing fires.

The Motion was agreed to.

The Council was then adjourned to Saturday, the 19th Instant.

Saturday, November 19, 1864.

PRESENT:

His Honor the Lieutenant-Governor of Bengal,

Presiding.

T. H. Cowie, Esq., (*Advocate-General*),	F. Jennings, Esq.,
The Hon. Ashley Eden,	Munshi Amir Ali,
E. T. Trevor, Esq.,	Khan Bahadur,
F. R. Cockerell, Esq.,	Babu Degumber Mitter
Syed Azumudin Hossun Khan Bahadur,	and
	E. D. Kilburn, Esq.

MR. KILBURN took the usual oaths and his seat in the Council.

THE STORING OF INFLAMMABLE OILS IN THE TOWN AND SUBURBS OF CALCUTTA.

THE HONORABLE ASHLEY EDEN moved for leave to bring in a Bill to provide for the safe keeping of Inflammable Oils in the Town and Suburbs of Calcutta. The Bill proposed restrictions somewhat similar to those in force with regard to the storage of gunpowder. It might seem at first sight that the present Bill ought to have been amalgamated with the Bill which he had obtained leave to introduce at the last Meeting of the Council; but practically it had been found better to bring in a separate Act, inasmuch as the storage of Inflammable Oils on land would have to be regulated by Officers unconnected with the management of the Port. By this Bill the regulation of the storage of Inflammable Oils would be placed in the hands of Officers specially appointed for the purpose. The Bill provided that not more than 40 gallons of Inflammable Oil should be kept within 50 yards of any dwelling-house or building for the reception of goods, without a license from the proper authorities. Inflammable Oils were defined to include Petroleum, Benzole, Kerosine, and any oil or product of oil that gives off inflammable vapour at a temperature of less than one hundred degrees of Fahrenheit's thermometer.

The Motion was agreed to.

JUDGE OF THE 24-PERGUNNAHS.

THE HONORABLE ASHLEY EDEN moved that the Bill to render valid certain acts and proceedings of the Judge of the Court of Session of the Zillah of the 24-Pergunnahs, be read in Council.

The Motion was agreed to, and the Bill was read and referred to a Select Committee consisting of Mr. Trevor, Mr. Cockerell, Syed Azumudin Hossun, and the Mover.

PROTECTION AGAINST FIRE IN PORTS.

THE HONORABLE ASHLEY EDEN moved that the Bill to make better provision for the prevention of injury from fire in Ports in the Provinces under the control of the Lieutenant-Governor of Bengal be read in Council.

The Motion was agreed to, and the Bill was read, and referred to a Select Committee consisting of the Advocate, General, Mr. Jennings, Babu Degumber Mitter, Mr. Kilburn, and the Mover.

The Council was then adjourned to Saturday, the 26th Instant.

Saturday, November 26, 1864.

PRESENT:

His Honor the Lieutenant-Governor of Bengal,

Presiding.

T. H. Cowie, Esq., (*Advocate-General*),	F. Jennings, Esq.,
The Hon. Ashley Eden,	Munshi Amir Ali,
E. T. Trevor, Esq.,	Khan Bahadur,
F. R. Cockerell Esq.,	Babu Degumber Mitter,
Syed Azumudin Hossun Khan Bahadur,	and
	E. D. Kilburn, Esq.

THE STORAGE OF INFLAMMABLE OILS IN THE TOWN AND SUBURBS OF CALCUTTA.

THE HONORABLE ASHLEY EDEN moved that the Bill to provide for the safe keeping of Inflammable Oils in the Town and Suburbs of Calcutta be read in Council. He had on the last occasion explained the nature and object of the measure, and he did not think it necessary to say more on the subject. The Bill was now before the Council, and would be referred to a Select Committee. He might, however, point out that it would be worthy of consideration whether the storage of Jute and other inflammable substances might not also be dealt with in the present Bill, as there appeared to be a feeling of apprehension as to the danger which might arise from the careless storage of those articles.

The Motion was agreed to, and the Bill referred to a Select Committee consisting of Mr. Trevor, Mr. Jennings, Baboo Degumber Mitter, Mr. Kilburn, and the Mover.

The Council was then adjourned to Saturday, the 3rd December.

Saturday, December 3, 1864.

PRESENT:

His Honor the Lieutenant Governor of Bengal,

Presiding.

E. T. Trevor, Esq.,
F. R. Cockerell, Esq.,
Syed Azumudin Hossun Khan Bahadur,
F. Jennings, Esq.,
Munshi Amir Ali, Khan Bahadur.
Rajah Sutt Shurn Ghosal,
Baboo Degumber Mitter,
and
E. D. Kilburn, Esq.

REGULATION OF JAILS.

MR. COCKERELL moved for leave to bring in a Bill to amend Act II of 1862 passed by the Lieutenant-Governor of Bengal in Council (An Act for the regulation of Jails and the enforcement of discipline therein). He said, it was provided by Section V of Act II of 1864, which was passed early in the current year, that the Civil and Criminal Jail in every District should be under the control of the Magistrate of the district or of any Magistrate to whom the Magistrate of the District might *temporarily* make over the control thereof, or of such other Officer as might be appointed by Government. By Section VII the Government was empowered to frame Rules for the management of Jails, and those Rules had been laid down, entering so minutely into details as to impose so much work in carrying them out upon the Officer in charge of the Jail that it had been found practically inconvenient to restrict the power of the Magistrate to making over mere temporary charge. The custom had been, therefore, when the charge of the Jail had been handed over to a subordinate Magistrate, for the Magistrate to be held still responsible for the due performance of the supervising duties. But the practice was inconvenient and objectionable; and it was now proposed to provide that Jails should be under the control of the Magistrate of the District, or of any Magistrate to whom the Magistrate of the District might make over the control thereof, and that the Jails in any division of a District should be under the control of the Magistrate who might be in charge of such division, acting under the instructions of the Magistrate of the District. In the above Section of the Act there was a provision giving the Government power to place any other Officer in charge of Jails, which referred to cases where the responsibility was taken from the Magistrate; but the present object was to relieve the Magistrate of the district of the onerous duties attaching to the Officer who had the immediate control of the Jail, without removing from him the entire responsibility or checking his power of interference where such might be necessary.

Section XV of Act II of 1864, among other provisions, provided that the Officer in whom the control of a Jail might be vested

should have the power of placing refractory prisoners in irons for seven days: but there was no provision for the punishment of more heinous offenders, and under the existing law the imposition of fetters as a precautionary measure for the safe custody of prisoners was nowhere authorized. Under the old law confinement in irons formed ordinarily a part of the sentence in heinous cases, and the Officer in charge of the Jail had a general discretionary power of imposing fetters where it was required as a precautionary measure to ensure the safe custody of the prisoner, or for the purpose of enforcing Jail discipline. In the present condition of many of the Jails in these Provinces it was necessary that the Officer in charge of the Jail should still have this power. It was, therefore, now proposed that power should be given to the person in control of the Jail, among other punishments, to place a refractory prisoner in irons for a month for the first offence, and six months for a second offence of the same description, and very heinous offenders for a year; and to place any prisoner undergoing sentence of *rigorous* imprisonment in irons as a precautionary measure to ensure his safe custody, subject to the condition of reporting to the Officer appointed under Section VIII of the Act every instance in which this authority was exercised and the circumstances which necessitated it. He begged to move for leave to introduce the Bill.

THE PRESIDENT said that perhaps he might mention to the Council that yesterday he had introduced into the Council of the Governor-General a Bill, having for its object to place the Great Jail of Calcutta under the control of the Government of Bengal. At present that portion of it not including the House of Correction was under the control of the Sheriff. When that was done, as he thought probably it would be done, the Great Jail would be under the Inspector-General of Jails, who would be under the Government of Bengal. The Rules which had been passed with respect to Jails appeared to be as applicable to that Jail as to any other, and it was desirable that there should be one general system extending over the whole country. When the Bill was referred to the Select Committee, it might appear to be advisable to consider the expediency of dispensing with that portion of Act IV of 1862 which referred to the House of Correction only, and to include the whole law in one general Act. He wished to inform the Council, with reference to one provision of the Bill, that when the Government asked for a power, which in point of fact had always been exercised, of putting prisoners in fetters, it was not proposed to inflict it so much as a punishment as to provide for the security of prisoners, and when the important object had been accomplished of providing safe and secure Jails, the restriction of prisoners in fetters might be unnecessary. The Jails in Bengal had been built for the most part many years ago, at a time when the comfort of prisoners was perhaps less thought of than at present, and many of them were very insecure, being merely a collection of huts surrounded by bamboo canes, and it was impossible to confine prisoners in those Jails, with regard to the safety of society, without the restriction of fetters. He had made a proposal to the Government of India, which he was happy to say had been agreed to, which was that eight Jails should be erected in Bengal at a cost of 40 lakhs of Rupees, each capable of containing 1,000 prisoners, so that persons who had committed the more serious class of offences, and had been condemned to long sentences of imprisonment, might be securely confined; and the Jails to which he had alluded could be used more as locks-up than Jails. When these Jails were completed, the present measure might perhaps become unnecessary.

The Motion was then agreed to.

REGISTRATION OF DEEDS.

MR. COCKERELL moved for leave to bring in a Bill to repeal Act IX

of 1862 passed by the Lieutenant-Governor of Bengal in Council (An Act to amend the law relating to the appointment of Registrars of Deeds, and to provide for the establishment of Deputy Registrars' Offices). He said, Act XVI of 1864 would come into operation from the first of January next, and as the Act above mentioned would then become inoperative, it had been thought well to repeal it.

The motion was agreed to.

ADJUDICATION OF CLAIMS TO WASTE LANDS.

MR. TREVOR moved for leave to bring in a Bill to amend Act XXIII of 1863 passed by the Governor-General of India in Council (An Act to provide for the adjudication of claims to waste lands), so far as the same relates to the Provinces subject to the Government of Bengal. He said, the Bill had reference principally to those Courts before which claims to waste lands must be laid under the Act referred to. It appeared that, unless all the Members of the Court were present, no adjudication could be come to. That gave rise to great inconvenience, and in one case he knew, when a Court consisted of three Members, two of whom were disqualified, that no adjudication could be made. It was proposed to amend the Section relating to the constitution of the Court, and to provide that, in the event of the disqualification or absence of any Member, a certain quorum of the remaining Members should have power to adjudicate, or if, as in the case to which he had alluded, only one could attend, that the Lieutenant-Governor should have power to appoint a Member provisionally.

The Motion was agreed to,

The Council was then adjourned to Saturday, the 10th Instant.

By subsequent order of the President, the Council was further adjourned to Saturday, the 17th Instant.

Saturday, December 17, 1864.

PRESENT:

T. H. Cowie, Esq., *Advocate-General, Presiding.*

The Hon'ble A Eden,
E. T. Trevor, Esq.,
F. R. Cockerell, Esq.,
Syed Azmuddin Hossain Khan Bahadur,
F. Jennings Esq.,
Munshi Amir Ali, Khan Bahadur,
Rajah Sutt Sharn Ghosal,
Baboo Degumber Mitter,
and
E. D. Kilburn, Esq.

REGULATION OF JAILS.

MR. COCKERELL moved that the Bill to amend Act II of 1864 passed by the Lieutenant-Governor of Bengal in Council (An Act for the regulation of Jails and the enforcement of discipline therein), be read in Council. It would be unnecessary for him to offer any further explanation of the measure than he had given at the last Meeting, and that which appeared in the Statement of Objects and Reasons. From what had fallen from the President of the Council, it appeared that in consequence of the insecurity of many Jails, the use of irons, although not strictly legal, had been adopted, and in Committee it might be as well to consider the expediency of introducing an indemnity clause, with regard to those persons in charge of Jails, who had made use of fetters.

BABOO DEGUMBER MITTER said that, before the motion was affirmed, he craved leave to say a few words in reference to the principle of the Bill. It struck him that the principal aim of this Bill was to provide means for the conduct of the Jails with the least possible expense to the State. The object certainly was very desirable, if it could only be attained without disregarding the calls of justice and humanity. The Hindu rulers of old dispensed altogether with the necessity of maintaining such costly institutions, by punishing the criminals with the deprivation of the different members of their body according to the different degrees of criminality. The 4th Section of the Bill in question looked like an attempt

to ignore the modern necessity of secure and commodious buildings for the reception of prisoners, by providing that, for the purpose of safe custody, the inmates of the Jails should be put in irons. This, he respectfully submitted, was a retrograde move in legislation and Jail discipline, and he did not see in the Statement of Objects and Reasons that any necessity had been made out for so flagrant a departure from the only true principle which would justify the infliction of pains and penalties upon humanity, namely, the prevention of crime. It must be presumed that the laws of the land were sufficiently vindicated by any punishment prisoners might have been sentenced to. The infliction of any additional suffering, not for any offence committed afresh, but simply by way of security against their escape, even if it were infinitely less galling and degrading than the measure proposed, would be an outrage against humanity, as it would be subversive of the just principles of legislation. But whence arose this anxiety? It should be borne in mind that the prisoners confined in these insecure divisional kutcha Jails were mostly those who were sentenced to short periods of imprisonment, because those who were undergoing long periods of imprisonment could be easily removed to District Jails which were pucka, and, for purposes of safe custody, secure enough. Was it for a moment to be supposed that these short-term prisoners were insane enough to run out of the frying pan into the fire? That they should exchange their sufferings of two or three months for rigorous imprisonment for two years? They must know full well that sooner or later they must be recaptured, unless they preferred the worse alternative of roaming among wild beasts—perpetual exiles from home. But even if it were otherwise, he respectfully contended that it were infinitely better that a prisoner or two occasionally escaped, until proper places were ready for their safe custody, than that this Council should commit itself to a doctrine so far behind the age. He had grave objections to some other Sections of the Bill, but those Sections, however, might, and no doubt would, be remedied in Committee. He felt it his duty to press upon the Council that the Bill might not, at any rate, be referred to a Select Committee with the Section he objected to. He would conclude by moving that the fourth Section of the Bill be expunged before it be read in Council.

THE HONORABLE ASHLEY EDEN was afraid that the Honorable Member had totally mistaken the scope and object of the Bill. The Section to which he had objected contained no new principle. The practice had been in force ever since this country had been under British rule. If "humanity was outraged" by the imposition of fetters, it had been outraged without murmur or complaint for a century. A Bill had been passed in that Council during the present year, which recognized the principle of using fetters for short periods, as a matter of Jail discipline. The Council had, however, lost sight of the fact that, in the Penal Code, there was no provision for the imposition of fetters as part of a judicial sentence, which had been the law previous to the passing of the Code. Such an order was, in fact, no where specifically prohibited as an executive order now; indeed, nearly all the prisoners in the Jails in Bengal were actually in fetters at the present moment, and it was essential to their security that they should continue to be so. It had been found that Act II of 1864 did not give sufficient power. The question raised by the Honorable Member was one which would be best settled in Committee. As regarded the allegation that the imposition of fetters was to be legalised as a mere matter of economy, the erection of eight large jails in Bengal, which had been sanctioned, and for which estimates were actually being prepared, clearly showed that legislation was not based on any such mistaken view.

MR. COCKERELL hoped that the Bill would be read in Council as it,

stood. The Hon'ble Member who spoke last had pointed out how mistaken the Hon'ble Member who had preceded him had been with regard to the objects of the measure, and it was unnecessary for him to say more. It was simpy a temporary measure, and one of expediency, on account of the insecurity of the existing Jails. With regard to what had been said by the Hon'ble Member who had spoken against the Bill in its present form, on the subject of the few insecure Jails, and the suggestion that prisoners sentenced for long terms, and for whose safe custody the means of confinement afforded by these Jails was insufficient, might be transferred to other Jails,—he would observe that in his belief, with the exception of Alipore, no Jail throughout these Provinces was so constructed as to provide means of secure confinement for prisoners of all classes. Certainly two of the largest Mofussil Jails which had been under his control when he was a Magistrate, and which sometimes contained from 600 to 800 prisones, could not be called secure prisons. The provision in the present Bill, which was so strongly objected to by the previous speaker, was therefore absolutely necessary as a temporary measure

BABU DEGUMBER MITTER said that, notwithstanding what had been said, he adhered to his original opinion. It was no argument that the principle of using fetters was an old one. What should be considered was, was it a good one?

MR. JENNINGS thought that the first consideration was the security of honest people. He had no sympathy with that morbid consideration for criminals which was too common in India, and if Jails were at present insecure, a measure like the one now proposed was absolutely necessary.

The amendment was then put and lost, and the Bill was read and referred to a Select Committee, consisting of the Advocate-General, Mr. Eden, Syed Azumudin Hossun, Baboo Degumber Mitter, and the Mover.

REGISTRATION OF DEEDS.

MR. COCKERELL moved that the Bill to repeal Act IX of 1862, passed by the Lieutenant-Governor of Bengal in Council (An Act to amend the law relating to the appointment of Registrars of Deeds and to provide for the establishment of Deputy Registrars' Offices), be read in Council. He had explained its object at the last meeting, and it was not necessary to add anything at present. As the general Registration Act would come into force on the first of January, it was very desirable that the Select Committee should report as soon as possible.

The motion was agreed to, and the Bill referred to a Select Committee consisting of Mr. Trevor, Babu Degumber Mitter, and the Mover, with instructions to report within one week.

The Council was then adjourned to Saturday, the 31st Instant.

Saturday, December 31, 1864.

PRESENT:

T. H. Cowie, Esq., *Advocate-General, Presiding.*

The Hon'ble A. Eden,
E. T. Trevor, Esq.,
F. R. Cockerell, Esq.,
Syed Azumudin Hossun Khan Bahadur,
Ralph Sutt Shurn Ghosal,
Baboo Degumber Mitter,
and
E. D. Kilburn, Esq.

JUDGE OF THE 24-PERGUNNAHS.

THE HONORABLE ASHLEY EDEN moved that the Report of the Select Committee on the Bill to render valid certain acts and proceedings of the Judge of the Court of Session of the Zillah of the 24-Pergunnahs be taken into consideration in order to the settlement of the Clauses of the Bill; and that the Clauses be considered for settlement in the form recommended by the Select Committee.

The Motion was carried, and the Clauses were agreed to with a verbal amendment.

On the Motion of Mr. Eden, the Bill was then passed.

REGISTRATION OF DEEDS.

MR. COCKERELL moved that the Report of the Select Committee on the Bill to repeal Act IX of 1862, passed by the Lieutenant-Governor of Bengal in Council (An Act to amend the law relating to the appointment of Registrars of Deeds, and to provide for the establishment of Deputy Registrars' Offices), be taken into consideration in order to the settlement of the Clauses of the Bill.

The Motion was carried, and the Bill was agreed to without amendment.

On the Motion of Mr. Cockerell, the Bill was then passed.

The Council was then adjourned to Saturday, the 14th January.

By subsequent order of the President, the Council was further adjourned to Saturday, the 21st January, and afterwards to Saturday the 28th January.